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FOREWORD

In this issue of the Journal of International Legal Communication, we delve into a variety of topics that highlight contemporary challenges and opportunities in legal communication, ranging from the impact of digitalization on auditing to addressing violations in spatial planning.

Our first paper, authored by Anzhela Grylitska, explores the role of digitalization in the auditing process. Grylitska argues that embracing digitalization is crucial for audit firms aiming to enhance their competitive advantage and establish a strong presence in the audit services market.

Next, Denny Zul Syafardan, Sudarsono, Bambang Sugiri, and Imam Koeswahyono examine violations in spatial planning and the concept of beneficial ownership as an approach to addressing corporate criminal liability in this context. They highlight the need for clearer norm formulation to ensure the effectiveness of corporate criminal sanctions and the achievement of legal objectives.

Vinaricha Sucika Wibawa, Sudarsono, Istislam, and Shinta Hadiyantina then turn our attention to the use of digital evidence in the judicial process. The authors emphasize the necessity of information technology (e-government) for state administrators across the judiciary, legislature, and executive branches. They explore the challenges and opportunities of digitalization in the context of the Supreme Court, including data management, system errors, and the potential involvement of web experts.

Ramona Duminică and Andra-Nicoleta Puran provide insight into the requirements of language and legislative technique in Romanian lawmaking. They discuss the rules lawmakers must adhere to in order to develop and structure effective normative acts.

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Finally, Hermawanto, Sudarsono, Tunggul Anshari Setia Negara, and Bambang Sugiri investigate the legal implications surrounding the subject and scope of responsibility in fulfilling human rights, with a particular focus on social security rights. Their research reveals ambiguities in legal implications, calling for further clarity regarding the subjects' responsibilities and the scope of their obligations in implementing social guarantees.

We, the JILC Editorial Board, hope that these diverse and thought-provoking contributions will inspire engaging discussions and further research in the field of international legal communication. Enjoy your reading!

Joanna Osiejewicz
Editor-in-Chief

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THE DIGITAL AUDIT AS A KEY ELEMENT OF UKRAINE`S WAY OUT FROM COVID-19

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Abstract. The article examines the impact of digitalization on audit development and determines the prospects for its development under such conditions. The author of this article determined conditions and suggested recommendations for the development of audit efficiency under automation. The elements that affect the mechanism of audit digitization and the possible directions for the development of audit functions in the computerized sphere are identified. The author of this article analyzed the classification of audit information technologies and the circumstances of audit software development. Factors that hinder audit automation are identified. A new level in the audit environment is its digitalization. This level is rapidly developing at Ukrainian enterprises, as almost all enterprises use an automated accounting method. Auditors use programs of various orders that must meet the requirements of the modern world. It is digitalization that will become an important component for audit firms seeking to increase their competitive advantage and take positions in the audit services market.

Keywords: audit, digitization, COVID-19, development, software.

INTRODUCTION

The quick spread of COVID-19 is forcing a lot of entrepreneurs to modify their priorities. Therefore, organizations that produce services offline are attempting to prepare their services for the latest actualities. In spite of the pessimistic effect of the pandemic on the global economy, it seriously speeds up the growth of digitization. The digital modification of corporations has generated a need for improving the duties of auditors. A large amount of information necessitates a search for efficient and productive ways to audit management. Immediate access to every bit of needed and all-important information will allow experts to recognize risks rapidly and generate relevant business solutions. According to the worldwide research titled "COVID-19: Business Impact and Counteraction" by the Association of Chartered Accountants (ACCA), the spread of COVID-19 had a substantial effect on audits (Covid-19 Global Survey: Inside business-impacts…, 2020). The author of this article believes auditors, through the critical time of COVID-19, should organize their occupations in compliance with the latest studies. This study implied conducting an opinion

poll on the impact of the spread of COVID-19 on the audit of organizations, which showed notable complications in working with clients. The greater part of interviewees (53%) said they experienced some tension when working with customers, and more than a third (36%) said they did not have the opportunity to meet deadlines for reporting. A fourth part of the interviewees said that the procedure of collecting audit evidence had become even more complicated, and 27% of the interviewees said that audit risk related to valuing assets, fulfilling obligations, and ensuring business continuity had increased significantly.

On the subject of the COVID-19 pandemic, many companies were forced to address the issue of arranging subsequent activities, as long as some of these companies had already had to present finance reports. Restricted conditions for the functioning of organizations have a negative influence not only on themselves but also on auditors.

Under the effect of forced quarantine restrictions, companies have experienced some troubles in the preparation of reports and, as a consequence, in managing audits since the beginning of quarantine. Since these restrictions affect not only interconnection but auditors when they select the necessary information to come up with the audit report, there is a direct necessity to contemplate alternative attitudes to auditing (Audit and Covid-19: The FRC recommends developing…, 2020).

Auditors have to appraise the influence of COVID-19 on the following elements:

- collection of sufficient and relevant audit evidence. Nevertheless, it is impossible to manage the audit mechanism in the standard way during a pandemic, so the methods of collecting evidence have to be modified or even completely changed;
- in the case of an audit of groups of organizations, it is needed to be concentrated on how the audit of a single department of this group is organized;
- the auditor activity should be under constant supervision to justify the assessment of the activities and the need for continuity or prerequisites for the liquidation of the audit;
- ability to maintain reliability and verify factual information received from the audience about the influence of COVID-19 on the occupation of the audited unit and its comparison with the published one;
- the auditor has to evaluate the need for some of the planned procedural rules and discuss with the audited offices the possibility of providing information as soon as possible due to the rapid change in the situation in the country (Aditya et al., 2018; Kudirko, 2018).

Auditors are comfortable working with the audience and transmitting valid information on time. In such a way, an auditor can guarantee that an adequate level of information is disclosed by a company, even though it significantly differs during the pandemic from those that auditors see in annual reports under normal circumstances. Thus, auditors will have a real opportunity to report on existing risks to the business, industry, or company.

The development of new methods of auditing is dictated by the dramatic growth of information and the need to work with Big Data. The key detail for auditors is a digital audit.

Problem and conflict issues should be addressed to develop an all-inclusive method for audit digitalization in a time of economic transformations and limited business practices caused by the global pandemic of 2019-2020.

MATERIALS AND METHODS

The economic consequences of the pandemic have been studied by Ukrainian and foreign scientists, such as S. Kulytsky (2020), A. Stavytsky, A. Nezhyva M. and Minyailo V. (2020), Navin Donthu (2020) and Anders Gustafsson (2020), Oleksandr V. Bartik, and others.

S. Kulitsky explores what to expect in Ukrainian society, including the economic sphere (Kulytsky, 2020). The scholar determines the impact of the pandemic on the economic and social spheres of life. Navin Donthu (2020) and Oleksandr V. Bartik analyze the results of COVID-19 for various industries and the economy in general. They found that many businesses, predominantly small ones, were closed, and employment fell.

All authors note that companies use innovative strategies to meet customer demands during the COVID-19 crisis. A. Stavytsky says that the pandemic and economic crisis must form a new country in which there will be changes in the structure of the economy. M. Nezhiva and V. Minyailo (2020) suggest a way to solve these problems with the help of professional software products. The purpose of the article is to determine the role of digitalization in the financial sphere, in particular in the field of audit, study the results of technology implementation in foreign countries, and identify promising areas for Ukraine in the context of COVID-19.

The materials of the study were indicators of the spread of the COVID-19 pandemic in the world, public publications of scientists, official reports of international organizations, regulations, etc. Many methods were used during the study of this issue, including methods of analysis and synthesis. They are necessary for the study of the economic essence of the audit in the conditions of COVID-19. Methods of general analysis and a systematic approach that determines the methodological foundations of the enterprise management system are equally important. In order to analyze the impact of the COVID-19 pandemic on business, the author of this article considers general and specific methods that provide a broader understanding of the objective nature of economic phenomena and processes. Causality methods are also necessary to study auditing with the impact of digitalization. System analysis methods and scientific abstraction make it possible to formulate general conclusions.

RESULTS AND DISCUSSION

In 2019, the Ministry and the Committee for Digital Transformation of Ukraine were established to implement the digital policy (Ministry and Committee for Digital Transformation of Ukraine, 2022). The Ministry aims to accelerate the country's digitalization to run at least 50% of all public services online..

The newly created department is responsible for the formation and execution of state policy in the sphere of digitizing, national electronic information resources, etc.

The main goal of this Ministry is to ensure full coverage of Ukraine with high-quality, high-speed Internet. Going-forward plans imply teaching people digital skills. It is also planned to launch an online platform where everyone can get such skills for free.

Furthermore, the Ministry supports the IT sector, which supports the EP, in addition to 10%. Developers are currently working on the "Action" platform, through which public services will be provided online (Electronic application "ACTION", 2022).

The International Auditing and Assurance Standards Board has developed information for

2020-2022 using the operative "evolution" of technology. The main tasks for this period are as follows:

- improvement of internal auditing processes through the introduction of new technologies;
- proper allocation of resources;
- responsiveness to the growing needs of key required pages.

Ukraine has approved tax changes in the framework of the BEPS Action Plan (Law of Ukraine On Amendments…, 2020) and prepared a set of new recommendations of the Organization for Economic Cooperation and Development, previously called BEPS Action Plan 2.0, which consists of two parts.

The first part explains how the present rules of worldwide taxation can be changed to consider the digitalization of the global economy and the changes it will bring. The second part deals with other issues that remain open. In particular, it is necessary to dispossess conglomerate corporations of the opportunity to bring financial gain to jurisdictions with low levels of taxation.

Experts note that the digitizing process will actively contribute to the growth of the world economy in the coming years, and the digital economy will cover almost a quarter of the global GDP in 2025.

Under quarantine circumstances, given the existing limitations on movement and entry to the business, alternative strategies are used to obtain audit evidence. They use remote photo and video recording of the stocktaking or online communication with the client's staff through secure communication channels.

Financial reporting and auditing were allowed to be expanded and made public, greatly simplifying the audit process and postponing some audit procedures related to direct access to primary documents and assets.

Auditors need to consider how to collect adequate audit evidence in the face of existing restrictions. Since most people now work remotely, workflow control is required. This can be done using various software (Merhout & Havelka, 2008). An example is CaseWare Cloud, which allows a company to control all workflows. CaseWare Cloud, in combination with CaseWare Working Papers, makes auditing better organized and arranged, as this software is automatic. In addition, all stages of audit procedures comply with International Standards on Auditing.

These programs help auditors monitor procedures. They allow auditors to view tasks online from any device. As a result, auditors are always aware of all workflows, regardless of their location.

It is possible to highlight the following benefits of CaseWare Cloud:

- control of work tasks using only mobile phones or computers;
- no need for employees to be in the office;
- ability to plan an audit;
- constant updating of data, which allows you to work with current information.

With reference to privacy, the program is provided with high-level physical security features, including compliance with SSAE 16 standards. It is PCI 1, which is ISO 27001 certified and compatible with all security systems.

As for audit software, Word and Excel are the most commonly used. In small firms, auditors replace specialized programs by performing simple calculations or printing standard forms of audit documents. They make requests to the electronic database, check individual calculations made in different areas of accounting, compile accounting registers with the help of an electronic client database, and analyze the entity's financial condition with the help of individual programs. In the companies of the "Big 4," any element of work can be done with the help of specialized programs adapted to the work of each company. Such programs include random number generators, databases that allow storing large data sets, and programs for the automatic construction of analytical graphs, charts, and more.

Ernst & Young succeeded in implementing numerous digital innovations in auditing that improved risk identification, reduced the burden on customers, and provided operational benefits and high-quality audits.

EY Canvas is the first online audit program to benefit from the ability of auditors to communicate with clients, regardless of their location. Audit firms can perform the audit process remotely and coordinate and manage their employees while providing high-quality audit services.

The program allows auditors to access the overall audit plan, review tasks daily, and share their interim audit results.

EY Canvas has many benefits that are as follows:

- availability of a central plan and audit by teams according to this plan and a single methodology;
- quick reaction, which allows you to immediately report the findings;
- rapid adaptation of the strategy to different geographical regions and response to the ever-changing environment;
- constant monitoring of the audit process and timely response to inquiries;
- optimized communication with customers through an integrated online network.

In addition, EY Canvas and Ernst & Young have developed a program called EY Canvas Client Portal, which allows customers to communicate directly with auditors so they can monitor the progress of the audit.

This program makes it possible to do the following:

- to reduce the number of e-mail inquiries and ensure better communication with clients, which saves time;
- to review the status of requests;
- to increase the security of customer data;
- to benefit from multilingual support (supports 10 languages).

The processes of automation and robotics are becoming more widespread in the world, and their advantages are as follows:

- security (technology without interference that can be configured for existing IT systems in the "as is" mode and has flexible configuration);
- action monitoring (recording and saving all actions in the systems);
- retention and development of employees (employees move on to intellectual tasks);
- speed (reduction of tasks, increased time productivity);
- significant cost reduction;
- 24/7 mode;
- reliability (systematic work without breaks, sick days, weekends, and holidays).

Ernst & Young actively uses “smart” technologies for specific audit procedures.

1. Inventory is used for the accurate measurement of bulk materials. It is developed as instrumental visual analytics with an accuracy of measurement of 95-97%, which can be performed using a smartphone camera.

2. Analysis of contracts through the use of artificial intelligence provides for reduced deadlines and increased accuracy of contract verification. A tool that includes the following additional features has been developed: obtaining primary documents for rent with text in the form of images; use of optical character and word recognition; identifying and receiving key data; data verification; marking parts of the text based on their compliance with accounting rules; sending requests for the involvement of specialists to analyze deviations. Based on the results of the audience, it is possible to consider other intellectual tasks performed, such as preparing recommendations for the client.

3. Automation of administrative processes involves the automatic conversion of scanned copies of documents into electronic, depersonalization of documents with the help of machine learning technologies, and real-time monitoring of the work status within the audit task (EY Canvas).

Digitalization is a new trend of today, which requires changes in personnel, new management styles, and other systems of work organization. Recent research shows that traditional companies are not ready for digitalization yet. People who are accustomed to working with traditional tools and methods of interaction with each other and customers predominantly face problems.

Relevant changes caused by the digitalization of financial and economic processes in enterprises have led to an emergency situation of creating a conceptually new, digital economy. The digital economy is an economy based on digital computer technology. The digital economy is also sometimes referred to as the Internet economy, the new economy, or the web economy. The digital economy means producing, selling, and delivering products over computer networks.

However, the digital economy and digitalization processes aim to use information technology in as many processes as possible.

Computer audit should be understood as a high level of audit automation characterized by the following:

- use of the latest information technologies as a key tool in the process of preparation and verification in the computer information system;
- an audit approach that assesses the reliability of the computerized information system of the environment as a basis for conclusions about the reliability of financial statements.

The use of automated software in the audit makes it possible to retrieve and process a large amount of information from the database of the client company quickly. It also speeds up audit procedures and makes it more convenient to document the results.

Computer audit methods can be used to perform various audit procedures, including the following:

- to test information processing in the client’s accounting system;
- to provide an analytical review of procedures to identify unidentified cases;
- to access data files and libraries;
- to test the compliance of software with management and accounting systems.

In order to approach international auditing standards and practices, it is required to introduce state-of-the-art technologies that automate the process of auditing financial statements and help with confidence and related tasks.

However, the use of automated software in auditing is complicated by certain factors. One of these factors is the companies' use of various software that does not imply performing fully automated audit procedures. Thus, the main requirement for audit programs is their flexibility, which means the ability to adapt to the features of accounting in a particular enterprise.

The main prospects for the development of audit automation programs are as follows:

- integration with the accounting system and accounting software;
- creation of the concept and the detailed instruction on adjustment by users of algorithms of formation of the reporting based on the imported data of accounting of the enterprise;
- introduction and regular updating of the audit methodology in the part of the auditor's paperwork, the database of potential (typical) violations and distortions;
- implementation of the ability to describe the customer's business processes;
- calculation of key indicators based on reporting data.

Audit information technology is a set of methods and procedures that provide the functions of collecting, accumulating, storing, processing, and transmitting data using technical means to achieve the purpose of the audit in the best conditions.

A digital audit provides the ability to perform audit procedures in accordance with the standards, taking into account the use of information visualization tools and analytical tools to obtain the required level of audit confidence on large data sets, as well as analytical procedures for non-financial audits.

The current state and dynamics of business processes of the XXI century are accompanied by a significant increase in the amount of information that the company receives, processes, and produces. This has led to the formation of large amounts of information, which has received its name in the digital economy, namely Big Data (large arrays of information). After all, Big Data as a phenomenon has created a separate market for companies that provide a wide range of services related to such information. These services include storage, protection, processing, and visualization of large amounts of information.

In each market, some companies are audited for their own needs (so-called initiative audit) or in accordance with the law of the country or supranational associations (independent external, mandatory audit). As a result of these information transformations in the digital economy, an audit firm is an important, almost equal user of big data enterprises, the results of which are of public interest. Performing audit procedures does not require obtaining and processing large data sets of just one entity but many audit clients who are in the audit firm's portfolio.

In addition to the direct audit of financial statements, companies additionally order or will be obliged to order controls, processes, and IT audit of software as a mandatory non-financial audit.

Now there is an evolution in the field of auditing services. Is it because we are moving from paper to Microsoft Office software? Due to the lack of a single mass tool, there is a potential reduction in audit efficiency. In order to support this level of efficiency, enterprises

use methods to increase staff and intensive methods, such as macros for MS Excel. Since these measures do not consider the annual increase in information, they are one-time or temporary. Expansion in the number of employees has its limits, and the use of MS Excel add-ins is limited by the toolset of the software itself.

CONCLUSIONS

In the conditions of a pandemic and in conditions of uncertainty, it is necessary to use iIn the conditions of a pandemic and uncertainty, it is necessary to use information technologies for the auditor's work. Digitization will be the new level in auditing. It is rapidly developing and spreading among enterprises that use software for automated accounting. Those programs used by enterprises for conducting audits need improvement. This is necessary to meet the requirements of the modern world.

Therefore, digitalization is becoming relevant for all audit firms, trying to gain a competitive advantage and take place in the market of audit services. All the problems that arise today in the field of audit need to be solved immediately in order to form a comprehensive approach to the digitalization of audit in the conditions of economic transformations and limitations of business practices caused by the global pandemic and in conditions of uncertainty.

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CRIMINAL ACCOUNTABILITY FOR CORPORATE CONVICTS IN SPATIAL PLANNING CRIME: THE CONCEPT OF BENEFICIAL OWNERSHIP (BO)

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Abstract. The aim of the research is to learn more about the concept of beneficial ownership (BO) as an approach for criminal liability in lieu of spatial planning crimes for corporations that lack assets or corporations that can only pay a portion of the crime. Several regions of the Unitary Republic of Indonesia have experienced widespread violations of spatial planning, according to some experts, as a result of substantive weaknesses, including the UUPR's criminal sanction system's philosophical, theoretical, and legal flaws, particularly its criminal sanctions for corporations. Theoretically, several theories of corporate criminal responsibility have not been able to reach corporate convicts in spatial planning crimes. The research method uses normative juridical methods. This research method is a legal research method that bases its analysis on applicable laws and regulations that are relevant to the research topic. The results of the study show that the UUPR on corporate criminal sanctions is incomplete, and the formulation of the norms does not address substitute punishment for corporate criminals who lack assets or who can only afford a part of their sentence. The UUPR's corporate criminal sanctions were not functional as a result of the incompleteness of the norms' formulation, preventing the achievement of the law's goals. The term "beneficial ownership" (BO) refers to natural persons who ultimately own or control (ultimately owns or controls) clients and/or people whose transactions are executed on their behalf. The BO concept and regulations regarding BO transparency indicate that it can be used as an

approach to reach alternative criminal liability for corporations. In terms of philosophy, the BO concept is consistent with the goal of criminal punishment for corporations; specifically, by imprisoning the actual beneficiary, the payment of the penalty can be used to return the space's damage to its original state, or at the very least, it can have a deterrent effect on those who use the space in an improper manner. So, for the Ius constituendum it is proposed to formulate criminal norms in lieu of fines for corporations by expanding accountability through the beneficial ownership (BO) concept approach.

Keywords: Vicarious Liability, Beneficial Ownership, Corporate.

INTRODUCTION

Spatial planning corporate criminal sanctions are criminal sanctions imposed on corporations as stipulated in Article 74 of Law Number 26 of 2007 concerning Spatial Planning. One of the sanctions for regulating spatial planning is the criminal penalty. This is done to maintain order in the use of space and ensure the sustainability of future spatial growth. Data on violations in the field of spatial planning, however, show that this optimism is still merely wishful thinking because large corporate crimes have been unaddressed by the legislation as it stands. According to data from the Ministry of Agrarian Affairs/BPN, numerous violations were discovered between 2015 and 2018, when conducting a spatial audit, where at least 6,621 locations were found to be flagged as having committed a violation. These violations were committed by both individuals and corporations (Kementerian ATR Temukan 5000an Pelanggaran Tata Ruang di Jawa, 2018).

Several methods are employed in the Criminal Act Spatial Planning Law (UUPR) to alter the allotment of land that has been specified in the laws and regulations. One of them is an example of changing agricultural land into residential areas such as Meikarta in Bekasi. It is obvious that a corporation committed a spatial planning crime in this instance, yet the offenders were not charged with the UUPR but rather with bribery as defined in the article on the Corruption Law.

According to several experts opinion, the UUPR has substantial weaknesses as well as the Job Creation Law which changed several articles in the UUPR but did not improve the arrangements in the Spatial Planning Law related to crimes for corporations. When the fine is not paid, there are legal issues, so it is desired that there will be regulations governing these situations. In addition to legal issues, there are also theoretical flaws. For example, criminal responsibility has not been able to identify who is most accountable for corporate crimes, preventing the achievement of legal objectives.

RESEARCH METHOD

This research is a normative legal investigation. This research strategy is a legal research strategy that relies its analysis on relevant, presently in force laws and regulations. The method of literature study was utilised to gather the data for this study, and secondary data

in the form of information about Beneficial Owners, corporate criminal responsibility laws and regulations, and books and journals about the research topics were employed.

RESULTS AND DISCUSSION

A. Beneficial ownership (BO) in Indonesia

One of the internationally recognized definitions of BO is the definition provided by the Financial Action Task Force (FAFT). According to FAFT (2014), BO refers to natural persons who ultimately own or control (ultimate owns or controls) customers and/or individuals whose transactions are carried out on their behalf. This also includes individuals who exercise overall effective control (ultimate effective control) over corporations or other legal agreements (arrangements). The terms "ultimate owns or controls" and "ultimate effective control" here relate to circumstances in which ownership or control is exercised via a chain of ownership or by exerting influence over a third party (indirect control) (Brown, 2020).

This definition requires that the beneficial owner, or BO, be an individual, not a corporation, trust, or other type of legal entity structure. In addition, beneficial ownership differs from legal ownership in that it involves the exercise of direct or indirect control rather than just the possession of a certain number of shares or other legal ownership. Legal and control ownership are not always held by the same parties. Who receives the advantages and whose behalf the transaction is carried out are both aspects of beneficial ownership. A person may serve as a formal or informal nominee but not personally own or control the corporation (Ariyani, 2020).

A number of nations, like the UK, require BO transparency through their laws. The UK Government introduced provisions for reporting BO in the Small Business, Enterprise & Employment Act 2015. The BO Register was launched in 2016 known as the List of People with Significant Control (PSC). This PCS registration information system is the first publicly accessible BO List among the G20 countries. Corporations that are required to register PSCs must ensure that PCS information is accessible. Information that must be included by a PSC in the Registration Center at Companies House includes name, date of birth, nationality, country of origin, service address, residential address, and time when a PSC was a corporation. As for Registable Relevant Legal Entities (RLEs), they must complete data on the name of the corporation, office address, legal form of the corporation and the law that governs it, place of registration of the corporation and its registration number, and the time when it became a corporation RLE (Agustianto, 2022).

Singaporean corporations are required to provide, maintain, and register specific information with the Accounting and Corporate Regulatory Authority (ACRA). The profile information includes the name and contact address of each shareholder, officer and director of the company. Singapore still accommodates controllers in the form of corporations (not only controllers in the form of individuals). However, using the most recent controller data in the form of an individual, this guide can be used to learn more about and keep track of information about the controlling party (BO) of a corporation (Novariza, 2021).

In October 2019, the US House of Representatives approved the Corporate Transparency Act of 2019 (Corporate Transparency Act) which for the first time required corporations in the United States to disclose the Ultimate Beneficial Owner (UBO) of the corporation. The Corporate Transparency Act aims to ensure that those who create corporations or

limited liability companies (PT) in the US disclose UBO from corporations or PT to prevent the use of corporations in criminal activity, help law enforcement identify, stop, and bring to justice those responsible for terrorism, money laundering, and other offences involving corporations and PT based in the US, among other things (Penerapan Kebijakan Prinsip Mengenali Pemilik Manfaat, 2022).

Indonesia is one of the countries that already has regulations regarding BO transparency. Namely, through Presidential Regulation No.13 of 2018 concerning Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes (Perpres 13/2018), Ministry of Law and Human Rights Regulation Number 15 of 2019 concerning Procedures for Implementing the Principle of Recognizing Beneficial Owners of Corporations (Permenkumham No. 15/2019). This regulation is an implementation of BO transparency.

Every corporation is covered by Article 3 Paragraph (1) of Precedent 13/2018. Limited liability companies, foundations, associations, cooperatives, limited partnerships, firm partnerships, and other types of corporations are examples of organised groups of persons or assets that are both legal and non-legal entities (Article 1 paragraph 1 and Article 2 paragraph) (2). The Authorized Agency may determine the Beneficiary Owner (BO) of the corporation in addition to the Corporation itself, which is required to do so, based on audit results, data from public or private institutions that handle Beneficiary data, or other information that can be accounted for. In Article 1 Paragraph 2, the term "Corporate Beneficiary" is defined as "persons who have the power to appoint or remove directors, commissioners, management, supervisors or supervisors in the Corporation, who have the ability to control the Corporation, who are entitled to and/or receive benefits from the Corporation either directly or indirectly, who are the actual owners of the funds or shares.

Permenkumham No. 15/2019 is the implementing regulation for Presidential Decree No.13/2018, technically regulating the procedures for submitting corporate BO information disclosure. Companies must provide accurate BO information when applying for incorporation, registration, and/or legalisation as well as while conducting business or engaging in other activities (Article 4). Submission of BO information can be carried out by a Notary, Founder or Management of the Corporation or other Parties authorized by the founders or managers of the Corporation. Although the means of disseminating this knowledge can be done online through AHU Online. At the very least, the following is part of the BO information collection: (i) full name; (ii) National Identity Number (NIK), driving license or passport; (iii) place and date of birth; (iv) nationality; (v) address of identity card (KTP); (vi) NPWP or similar tax identification number; and (vii) corporate relationship with BO.

According to the Financial Services regulations (POJK No. 23/2019), a beneficiary owner is any individual who: 1) has the right to and/or receives certain benefits related to the Customer's account; 2) is the actual owner of the funds and/or securities placed at the Financial Services Provider (ultimately own account); 3) controlling customer transactions; 4) give power to make transactions; 5) controlling corporations or other agreements (legal arrangements); and/or Is the ultimate controller of transactions conducted through legal entities or based on an agreement.

B. Corporate Criminal Liability

Several theories of corporate criminal responsibility that accommodate the imposition of criminal responsibility and punishment on corporations, include:

1. Vicarious Responsibility Theory

The Vicarious Responsibility doctrine is based on the principle of "employment principle" which is meant by the principle of employment principle, in this case the employer (employment) is the main responsibility for the actions of his workers or employees. So, in this situation, the agency principle, also known as "the servant's act is the master act in law," or "the firm is liable for the wrongful conduct of all its employes," applies. The basis of criminal behaviour goes from an individual to a corporation. Corporate responsibility is derived from the mistakes of their employees, officials or agents (Herlina & Pasaribu, 2020). Vicarious Accountability is also known as a person's legal duty for wrongdoings perpetrated by other individuals, according to Barda Nawawi Arief (Muladi & Arief, 1998) (the legal liability of one person for the wrongdoings of another). It is commonly understood as "substitute liability" in its simplest form. For instance, such accountability arises when another person acts in accordance with the duties of their job or position. So, it is often only applicable in situations where there is a relationship between an employer and employees, helpers, or subordinates. Thus, in the sense of Vicarious Responsibility, even though a person does not commit a crime himself and has no mistakes in the ordinary sense, he can still be held accountable.

2. Strict Responsibility Theory

Strict Responsibility as a criminal act does not require any fault in the perpetrator for one or more of the actus reus. This Strict Accountability is responsibility free of error. It should be underlined that for a crime with strict liability, all that is required to hold the perpetrator (defendant) accountable is his assumption or knowledge for the crime. As actus reus (actions) is the primary component of strict liability, there is no doubt as to the existence of mens rea; hence, it is actus reus (actions) that must be established, not mens rea (mistakes). Strict Liability is defined in Black's Law Dictionary (Black, 1990) Liability based on the violation of an absolute duty to make something safe rather than on real negligence or malicious intent. Strict Liability most often applies either to ultrahazardous activities or in product liability cases. Additionally known as absolute liability or liability without fault. (Free translation: Absolute liability. (Is) liability that is based on failing to uphold a strict duty of care rather than actual negligence or malicious intent to cause harm or financial loss. Absolute liability is frequently used in circumstances involving production liability or exceptionally risky operations.

C. The identfication doctrine

According to the identification concept, sometimes known as the direct responsibility doctrine, corporations are allowed to directly conduct a variety of crimes through people who are very intimately tied to them and who act for or on their behalf. The conduct of these agents must nevertheless fall within the purview of the corporation's duties in order for there to be direct corporate criminal responsibility. This theory is used in England, since 1944 it has been strictly regulated that a corporation can be held criminally responsible.

The doctrine of direct criminal responsibility or the doctrine of identification is one of the theories used as a justification for corporate criminal responsibility even though a corporation is not something that can stand alone. According to the doctrine, a corporation can commit a crime directly through a "senior officer" and be identified as the act of the corporation itself.

Thus, the actions of "senior officers" are seen or categorized as corporate actions. According to this theory, the person who actually committed the offence must be identified in order for a corporation to be held criminally liable. If a person who serves as the corporation's "directing mind" commits a crime, the corporation may really be criminally liable. The words "the acts and state of the person are the acts and state of the corporation" (a close translation of "the director's actions or will is the actions and will of the corporation") were also used by Richard Card. Based on the three corporate criminal liability principles mentioned above, it is essentially possible to utilise this law to catch firms who harm society by committing crimes.

D. BO's criminal responsibility in several regulations related to the handling of criminal acts by cooperatives

In accordance with the provisions of the TIPIKOR Law No. 31/1999 juncto Law No. 20/2001, Money Laundering Crime (TPPU) Law No. 8/2010, Perma No. 13/2016, and Attorney General's Regulations Number PER-028/A/JA/10/2014, BOs who use corporations to commit acts of corruption and/or money laundering are subject to criminal prosecution (Attorney General Regulation (PERJA), 2014).

Law No.31/1999 juncto Law No.20/2001, in the event that a criminal act of corruption is committed by or on behalf of a corporation, criminal prosecution and imposition can be made against the corporation and/or its management. (Article 20 paragraph (1)) (Corruption Law No.31/1999 juncto Law No.20/2001, 1999). What is meant by "administrators" are corporate organs that carry out the management of the corporation in question in accordance with the articles of association, including those who in fact have the authority and participate in deciding corporate policies that can qualify as criminal acts of corruption (Explanation of Article 20 paragraph (1)).

TPPU Law No.8/2010, what is meant by Corporate Control Personnel is any person who has the power or authority to determine Corporate policy or has the authority to carry out Corporate policies without having to obtain authorization from his superiors. (Article 1 point 14) (Money Laundering Law No.8/2010, 2010). In the event that the crime of Money Laundering as referred to in Article 3, Article 4 and Article 5 is committed by a Corporation, the sentence shall be imposed on the Corporation and/or the Personnel Controlling the Corporation (Article 6 paragraph (1)).

Perma No.13/2016 Concerning Procedures for Handling Crime by Corporations, Managers are corporate organs that carry out corporate management in accordance with the articles of association or laws that are authorized to represent corporations (Supreme Court Regulation (PERMA) No.13/2016, 2016). Including those, who do not have the authority to make decisions, but in reality can control or participate influence corporate policy or participate in deciding corporate policies that can qualify as a crime" (Article 1 point 10).

In conclusion, Table 1 displays the criminal procedures for corporations. There are no

criminal provisions for corporations without assets according to the regulations governing the regulation of corporate wealth. Thus, it can be inferred that the Vicarious Liability doctrine, which is upheld by a number of Indonesian laws and regulations, allows for alternative criminal liability to be accounted for by a third party or someone who has not personally committed a crime and has made no mistakes in the traditional sense but can still be held accountable.

Table 1.

Summary of Corporate Criminal Arrangements in the 2017 Draft Criminal Code, Perma 13/2016 , Attorney General's Regulation 028/A/JA/10/2014

No	Deskription Regulation	Draft Criminal Code (RKUHP)	Supreme Court rules (Perma)	Attorney General's Regulation (Perja)
1	Criminal Regulations	RKUHP 2017	13/2016	PER-028/A/JA/ 10/2014
2	Criminal Forms	Cumulative	Cumulative	Cumulative
3	Criminal Kinds	Fines, Imprisonment, Supervision	Fines, Additional Criminal (compensation money, compensation and restitution)	Fine, Imprisonment
4	Length/Amount of Criminal	imprisonment for a minimum of 1 (one) year and a maximum of 1 (one) year as threatened for the crime concerned	Proportionate	The value is the same as the fine imposed
5	Criminal Substitute for Corporate Fines	Criminal social work, criminal supervision, or imprisonment, revocation of business license or dissolution of the corporation.	Criminal Cage	Confiscation of property/ assets belonging to the Corporation or the Management of the Corporation and if not sufficient, imprisonment in lieu of fines is imposed on the management

Source: Processed from RKUHP 2017, Perma 13/2016, Perja 026/2014

E. Formulation of Corporate Criminal Articles in UUPR

Article 74 (1): In the event that the crime referred to in Article 69, Article 70, or Article 71 is committed by a corporation, in addition to imprisonment and fines against its management, the punishment that can be imposed on the corporation is in the form of fines with a weighting of 1/3 (one third) of the fines as referred to in Article 69, Article 70, or Article 71. Viewed based on the system of criminal sanctions, the corporate crime in these articles can be explained as follows:

1. strafsoort

The type of punishment that can be imposed on corporations is in the form of fines, this formulation is in line with Brickey, which argues that the main punishment that can be imposed on corporations is only fines. However, if sanctions are imposed in the form of closing the entire corporation, then basically it is "corporate death penalty", while sanctions in the form of all forms of restrictions on corporate activities, actually have the same essence as imprisonment or imprisonment, so that the term "corporate imprisonment" is known. Even additional punishment in the form of announcing a judge's decision (publication), is a sanction that is very feared by corporations (Muladi & Arief, 1998).

Likewise, fines in Article 74 (1) are in line with Article 25 of the Supreme Court Regulation concerning Procedures for Handling Criminal Cases by Corporations which stipulate that: (1) Judges impose sentences on Corporations in the form of principal penalties and/or additional penalties. (2) The principal sentence that can be imposed on the Corporation as referred to in paragraph. (1) is a criminal fine. (3) Additional penalties are imposed on Corporations in accordance with the provisions of the law.

2. strafmaat

The impact of the acts and components of the perpetrator's errors are taken into consideration when determining the length and size of fines. In the aquo article, the amount of the fine is set in reference to Article 69 to Article 71 ranging from 1 (one) billion to 8 (eight) billion, with a weighting of 1/3 (one third) times.

3. strafmodus

Criminal imposition cannot be separated from justice and legal certainty. To decide whether someone deserves to be punished or not, both of these criteria must be met. According to Roeslan Saleh, judges should give justice the highest priority possible when deciding how the law should be applie (Syamsu, 2016).

Several special laws have the words "longest and most" in their criminal threats but do not contain instructions on how to use them or their associated punishment. Problems may arise because, from the perspective of the criminal system, the number of criminal sanctions or threats is only one of the sub-systems of the criminal justice system that are taken into consideration when defining offences (special rules). This means that many "longest and most" sentences cannot simply be applied/operated simply by including them in the formulation of the offense. It needs to be regulated by another subsystem, like sentencing guidelines or some other method of implementation, before it can be put into practise. The replacement for organisations without assets cannot be imposed or executed since Article 74 (1) does not specify how to commit a crime and because of the findings of a criminal review. So, it is necessary to research the solution.

F. The application of the BO concept in the Expansion of Spatial Planning Corporate Criminal Responsibility

Based on the analysis of the criminal sanctions system in Article 74(1), it was discovered that the design of criminal fines for corporations was flawed; specifically, there was no guidance on who should be held criminally responsible when the corporation's defendant had no assets. A beneficial ownership (BO) concept approach is proposed as a replacement

responsibility for entities without assets. From a philosophical perspective, the system of criminal sanctions for businesses engaged in spatial planning is consistent with the idea of beneficial ownership (BO). By expanding what it did and what it intended, beneficial ownership can be held accountable from the standpoint of criminal law itself. The drafters of the Criminal Code ('KUHP') and the AML Law have realized this. In Indonesian criminal law, there is an expansion of criminal responsibility which is often referred to as deelneming.

According to Moeljatno (1985), inclusion is when more than one individual is involved in the commission of a crime. He argues that because each party has a specific category that must be met, no one who is involved may be considered a participant in the sense of Articles 55–56 of the Criminal Code (The Criminal Code (KUHP), 2023). This is consistent with the categorization given by Zevenbergen, Van Hamel, Simons, and Vos, who identify two groups of individuals, namely:

a. Stand-alone participants (zelfstandige deelnemers)
b. Participants who do not stand alone (onzelfstandige deelnemers)

Those who do not stand alone are considered to be participating, according to Moeljatno. It is unfair if someone who intends to commit a crime by ordering or persuading others to do it cannot be found by criminal law and cannot be punished because the orderer or the persuader (intellectual) is above the reach of criminal law. Therefore, inclusion in the perspective of criminal law serves two purposes. First, it ensures that a person does not escape criminal responsibility just because he is not a direct participant in committing a crime. Thus, the concept of beneficial ownership (BO) can be used as an approach for the reconstruction of criminal responsibility in lieu of spatial planning crimes for corporations, as formulated in Article 74 (1) UUPR. So, the BO concept can be accommodated to expand the accountability of cooperatives that commit spatial planning crimes. The BO concept is employed in this concept to address the issue of replacement punishment for firms without assets. It is required to extend corporate criminal responsibility, which is formulated in numerous additional articles, so that it reaches the actual owners of the firm, for the sake of legal certainty that is just in reconstructing the Corporate Criminal Sanction System Article 74 (1) of the UUPR.

CONCLUSION

From a philosophical perspective, the corporate criminal consequences for spatial planning are consistent with the idea of beneficial ownership (BO). By expanding what it did and what it intended, beneficial ownership can be held accountable from the standpoint of criminal law itself. The drafters of the Criminal Code ('KUHP') and the AML Law have realized this. In Indonesian criminal law, there is an expansion of criminal responsibility which is often referred to as deelneming. So, the idea of beneficial ownership (BO) can be applied as an approach for reconstructing criminal responsibility in place of corporate spatial planning crimes as defined by Article 74 (1) UUPR by including the phrase "Corporations as criminal acts and also accountable Benefit Owners".

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THE PRUDENCE OF ADMINISTRATIVE JUDGES IN THE DIGITAL EVIDENCE IN THE ERA OF APPLYING E-GOVERNMENT INFORMATION TECHNOLOGY

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Abstract. In this research, the use of digital evidence in courts is studied. State administrators, including the executive and the legislative, must use information technology (e-government), especially the judiciary. Digital evidence is also frequently utilised to resolve administrative disputes between states. Judges should be able to look over and evaluate cases that involve digital evidence in order to do this. The Supreme Court has issued PERMA Number 1 of 2019 concerning the Electronic Administration of Cases and Trials in Courts in order to get ready to adapt to changes in the digitalization of electronic services (e-government). This time, the Supreme Court is taking reforming the justice system's information technology field seriously as seen by the E-Court. Administrative Court Judges can make an effort, but in the digital age, Administrative Judges must pay attention to the entire e-government system. For instance, licencing now involves an integrated online system that includes components of the regional government, the provincial government, and the government centre. These factors make it possible for administrative judges to consult with web professionals. Because it is virtually difficult for an administrative judge to have good and accurate understanding of digital forensics, digital web forensic experts are required when proving matters at the Administrative Court. Web-based experts will provide insight into a case, assisting State Administrative judges in making judgements. The Supreme Court should hold education and training regarding online licensing, online registration, and online validation carried out by

the executive. Administrative judges should not hesitate to present web expert witnesses to explain an administrative case.

Keywords: Prudence, judge, Information Technology, E-Government.

INTRODUCTION

Indonesia is currently in the era of legal development, especially the development of digital law which is currently being developed rapidly. This is what we as writers believe will eventually influence people's outlook on life, their way of thinking, and the way they operate. The author of a journal article titled "Evolution of Indonesian Law Regarding Information and Communication Technology," Renny N.S. Koloay, claims that while e-mail and the Internet were relatively unknown in the 1990s, they became institutionalised and well-known ten years later. This is a component of world development (Koloay, 2016).

Development is a set of human endeavors to direct social and cultural change by the goals of national and state life, namely achieving growth in civilization, social and cultural life on the basis of the targets that have been implemented (Fuady, 2009). The ongoing Industrial Revolution includes current technical breakthroughs. The fast evolving digital era will usher in the fourth industrial revolution. The application of information technology (e-government) for state administrators, including the judiciary, the legislature, and especially the executive, is a must in the development of the Industrial Revolution 4.0, demonstrating the close relationship between the Industrial Revolution 4.0 and the governance system in Indonesia.

The government has implemented legislation and regulations relating to information technology as a sign that it is serious about promoting the implementation of e-government, including Law No. 11 of 2008 concerning Information and Electronic Transactions (UU ITE) (Law No.11 of 2008 concerning Information and Electronic Transactions, 2008); Regulation of the Minister of Administrative Reform and Bureaucratic Reform (MenpanRB) No. 06 of 2011 concerning Electronic Service Manuscripts (TNDE); and Regulation of the President of the Republic of Indonesia No.95 of 2018 concerning Electronic-Based Government Systems (SPBE). The Supreme Court has made considerable preparations for a New Era of Information Technology-Based Modern Justice from a judicial standpoint. With the Birth of Perma (MA regulation) Number 3/2018 concerning Administration of Cases in Courts Electronically. It has provided legal protection for the implementation of e-court applications. The Supreme Court then released Supreme Court Regulation Number 1 of 2019 pertaining to the electronic administration of cases and trials in courts. This time, the Supreme Court of the Republic of Indonesia has implemented the E-Court as a form of reform in the area of legal information technology (Robby & Tarwini, 2019).

The Plan to Ratify the ASEAN Agreement on Trade via Electronic Systems and the Bill on Changes to Law Number 11 of 2008 Concerning Information and Electronic Transactions are two key programmes that the DPR RI is presently seriously planning for at the legislative level (ITE). The publication of these laws and regulations, particularly Presidential Decree No. 95 of 2018 regarding SPBE, demonstrates the seriousness with which all branches of

our government are currently pursuing the realisation of effective and efficient governance through the use of information technology (e-government) as a whole. The application of e-government will later be interconnected in a government administration system and in the delivery of public services in a government agency.

The applicant at the Land Office desires returning the name of the certificate to the Land Office, to use the author's example. The applicant's conditions weren't met after the Staff at the Land Office's service counter reviewed the application files in their computerised system. The applicant's lack of an E-KTP constitutes the missing requirement. After that, the Land Office service counter officer suggests E KTP applicants go first. This is what I mean when I refer to the use of connected e-government in a system of government administration. The goal of this e-government is to improve the effectiveness, efficiency, and responsiveness of the public service delivery process from state officials to the community (faster response). E-government, or the use of information technology in governance, is another means to implement bureaucratic reform and raise the standard of public services so that they are more transparent, effective, and efficient.

The use of information technology in every element of governance is also one of the supports for the state civil apparatus (ASN) to be more qualified, innovative, competitive, effective and efficient in carrying out their duties. To do this, a new innovation that can enable and integrate information technology in e-government quickly, conveniently, and successfully is required. With the introduction of the OSS (Online Single Submission) licencing service, the community is currently experiencing the effects of this electronic service (e-government). The benefits of using OSS are the following (Taqiyya, 2021):

1. Facilitating the central or regional management of numerous business licences, business permits, and operational permissions for business operations with a method for satisfying obligations to permit requirements, including licences relating to location, environment, and buildings;
2. Facilitate commercial participants in establishing connections with all interested parties and securing permissions promptly, safely, and in real time;
3. Facilitate business participants in reporting and solving licensing problems in one place;
4. Facilitate business participants to store licensing data in one business identity (NIB).

OSS is used in obtaining business licenses by business participants with the following characteristics: in the form of business entities or individuals; micro, small, medium and large enterprises; individual businesses/business entities both new and those that were already established prior to the operationalization of OSS (Kusnadi & Baihaqi, 2020). Businesses where the majority or all of the capital is foreign or comes from within the nation. As a result, electronic records such as emails, chat logs, and other types of papers can be used as proof in court. With the aforementioned context in mind, the purpose of this study is to determine how the Supreme Court is getting ready to react to the expansion of e-government and the digitalization of electronic services.

RESULTS AND DISCUSSION

Law is generally understood as a system of rules created and enforced through social or

governmental institutions to regulate behavior, although the exact definition is a matter of long debate. It has been variously described as the science and art of justice. Laws enacted by the state may be made by the legislature and produce laws, by the executive through decrees and regulations, or formed by judges, usually in common law jurisdictions. Private individuals may enter into legally binding contracts (pacta sunt servanda), including arbitration agreements that may choose to accept arbitration as an alternative to normal litigation. The formation of the law itself can be influenced by the constitution, written or tacit, and the rights enshrined in it. Law acts as a bridge between individuals and influences politics, economy, history, and society in a variety of ways.

Comparative law examines how different legal systems in various nations compare. Legislative bodies or other organisations consolidate and codify laws in countries under civil law. In the common law system, judges create conclusive case law, however occasionally a higher court or legislature may overturn a judge's decision. Religious rules have historically had an impact on secular issues and are currently applied in some religious groups. In several nations, notably Iran and Saudi Arabia, the principal legal system is sharia law, which is founded on Islamic precepts.

The legal scope can be divided into two domains. Public law concerns government and society, including constitutional law, administrative law, and criminal law. Civil law deals with legal disputes between individuals and/or organizations in areas such as contracts, property, torts/delicts and commercial law. This distinction is stronger in civil law countries, particularly those with separate administrative court systems; conversely, the public-private law distinction is less pronounced in common law jurisdictions (Penyederhanaan Izin Usaha Masih, 2018).

We believe that sooner or later, the manner of life, mindset, and way of working in Indonesia will change as a result of the rapid advancement of digital law, which is presently under development. The Supreme Court has significantly prepared for a New Era of Information Technology-Based Modern Justice in order to adapt to the development of the digitalization of electronic services (e-government). The Supreme Court issued Supreme Court Regulation Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Courts. This time, the Supreme Court of the Republic of Indonesia has changed its approach to justice by implementing the E-Court, an information technology-based reform.

The application of e-government will later be interconnected in a government administration system and in the delivery of public services in a government agency. Given how quickly state administrators are digitising electronic services (e-government), it is possible that state administrative disputes may likewise grow in size. It is important to strike a balance between the potential for state administrative disputes in the area of (e-government) and the courts' capacity to research and evaluate cases with a digital component, particularly administrative judges (Ginting et al., 2022).

Administrative judges in state administrative disputes should pay attention to and weigh the opinions of electronic/website experts, especially government-owned websites. Considering that the application for government administration at this time is almost completely done online (for example: OSS, fiduciary, Mortgage Certificates, auctions, etc.). Via the OSS portal, the government has created a new national scale system called OSS

that is utilised for business licencing and commercial licence registration. An information technology-based licencing system called Online Single Submission (OSS) unifies licencing at the central and regional levels. The launch of the OSS system is a follow-up to Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services. Once again, the authors emphasize that the main purpose of the OSS system is to facilitate business activities in Indonesia. Thus, that it can increase investment and business (Presiden Resmikan Peluncuran OSS Berbasis Risiko, 2021; Setyowati, 2018).

Administrative judges should pay attention to the Online Single Submission (OSS) licensing system, because licensing now involves an integrated online system, which involves elements of regional government, provincial government and central government. It is these things that allow administrative judges to involve Web experts (Dawud et al., 2020). Because it is difficult, in our opinion, for administrative judges to have good and accurate understanding of digital forensics, digital web forensic professionals are required to prove cases at Administrative Court. Web expert witnesses will shed light on an administrative case, making it easier for State Administrative judges to make decisions (Mahfud, 2009).

Experts according to the Big Indonesian Dictionary are people who are proficient, fully versed in a science (intelligence). Web is a system for accessing, manipulating, and downloading hyperlinked documents contained in computers connected via the internet; networking; network. Hence, a person who is knowledgeable with methods for accessing, modifying, and downloading hyperlinked documents located in computers connected via the internet; networking; and complete networks is what is meant by a web specialist.

Law Number 11 of 2008 respecting Electronic Information and Transactions establishes the formal and substantive standards for electronic evidence's admissibility in court, as well as its legal weight. Electronic Evidence is Electronic Information and/or Electronic Documents that meet the formal requirements and material requirements regulated in the Electronic Transaction Information Law. Article 5 paragraph (1) of the Electronic Transaction Information Law stipulates that Electronic Information and/or Electronic Documents and/or their printouts are valid legal evidence. One or more electronic data, such as but not limited to writing, sound, images, maps, plans, photographs, electronic data interchange, electronic mail, telegrams, telexes, or the like, letters, numbers, signs, symbols, or processed perforations that have meaning or can be understood by those who are able to understand them, are referred to as "electronic information" (Article 1 point 1 of the Electronic Transaction Information Law).

What is meant by "Electronic Documents" is any Electronic Information that is created, forwarded, sent, received, or stored in analogue, digital, electromagnetic, optical, or the like, and that can be seen, displayed, and/or heard through a computer or other electronic system, including but not limited to writing, sound, pictures, maps, plans, photographs, or the like, letters, signs, numbers, Access Codes, symbols, or perforations with meaning or that can be understood by people (Article 1 point 4 of the Electronic Transaction Information Law).

In principle, Electronic Information can be distinguished but cannot be separated from Electronic Documents. Electronic Information is data or a collection of data in various forms, while Electronic Documents are containers or 'packages' of Electronic Information. For example, when we talk about music files in mp3 form, all information or music that

comes out of these files is Electronic Information, while Electronic Documents from these files are mp3s. Article 5 paragraph (1) of the Electronic Transaction Information Law can be grouped into two parts. First, Electronic Information and/or Electronic Documents. Second, printouts of Electronic Information and/or printouts of Electronic Documents. The Electronic Information and Electronic Documents will become Electronic Evidence (Digital Evidence). While the printed results of Electronic Information and Electronic Documents will be proof of letters.

According to Article 5 Paragraph (2) of the Electronic Transaction Information Law, Electronic Information and/or Electronic Documents and/or their printouts are an expansion of admissible legal evidence in accordance with Indonesian procedural law. The expansion must be related to the type of evidence covered by Article 5 Paragraph (1) of the Electronic Transaction Information Law. Expansion in this context refers to both the addition of evidence that has been subject to Indonesian criminal procedural law regulations and the broadening of the evidence that is subject to those regulations.

The expansion of evidence regulated in the Criminal Procedure Code has actually been regulated in various scattered laws. For example, the Company Documents Law, the Terrorism Law, the Corruption Eradication Law, the Money Laundering Law. The Electronic Transaction Information Law confirms that electronic information and documents, along with their prints, are admissible as proof in all instances where Indonesian procedural law is in effect. According to the Electronic Transaction Information Law, formal and material standards must be fulfilled. Article 5 paragraph 4 of the Electronic Transaction Information Law governs the formal requirements, stating that electronic information and documents are not considered letters or documents that must be in writing. Articles 6, 15, and 16 of the Electronic Transaction Information Law govern the material requirements, which essentially state that electronic information and documents must be guaranteed for their availability, authenticity, and integrity. In many instances, digital forensics is required to ensure that the material criteria in question are fulfilled.

CONCLUSION

Preparation of the Supreme Court to respond to the development of digitalization of electronic services (e-government), the Supreme Court has significantly prepared for a New Era of Information Technology-Based Modern Justice. With the Birth of Perma (MA regulation) Number 3/2018 concerning Administration of Cases in Courts Electronically, which has given the use of e-court applications legal protection. The Supreme Court then published Supreme Court Regulation Number 1 of 2019 about Electronic Administration of Cases and Trials in Courts. This time, the Supreme Court of the Republic of Indonesia has changed its approach to justice by implementing the E-Court, an information technology-based reform.

SUGGESTION

The Supreme Court should conduct Education and Training regarding online licensing, online registration, online support by executives, and administrative judges. Ideally in digital matters to avoid hesitation when presenting expert web witnesses to support a case.

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REQUIREMENTS OF THE LANGUAGE USED BY THE LEGISLATOR IN THE CONSTRUCTION OF THE NORMATIVE TEXT. SPECIAL LOOK AT THE ROMANIAN LEGISLATIVE TECHNIQUE

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Abstract. Any law is the reflection of a thinking before it is the expression of a will. The law can have beneficial or negative effects at the time of its application, and it can be validated or rejected by social practise depending on the quality of this thought, how the legislative solutions are expressed in words, and how they are structured. Therefore, in normative construction, drafting is an extremely important stage and should start from the fact that the law intervenes to respond to a social need. The scientific knowledge of this reality and the choice of a language appropriate to the norm's recipients become necessary prerequisites for the normative act's intended outcome. With reference to the standards established by the norms of Romanian legislative technique in the area of language, this article discusses the rules that a lawmaker must follow in the development and structure of the content of the normative act starting from these considerations.

Keywords: legislative language, legal vocabulary, legislative technique, the structure of the normative act.

INTRODUCTION ON THE LEGISLATIVE LANGUAGE

The law is a result of the legislator's thinking and requires a high degree of typification and abstraction. Its development requires a complex process, constrained by complex realities, in which two equally significant and interrelated aspects are highlighted: the aspect connected to the understanding of the social realities to be governed and the technical, formal aspect. The latter concerns elements related to the structure of the normative act, the style, the language in which it is drafted, as well as the specific procedure for its adoption.

The effective translation of the legislation into language holds a specific place in this procedure since it is essential to upholding the originality of the legislator's ideas and intended solutions when carrying out the application activity.

In the old, specialized literature it has been shown that "At this stage it is necessary to find the word and the formula for expressing the concepts that would allow the expression of the rules of law. The word and the formula of expression constitute the absolutely necessary tools for the communication of legal notions, norms and reasonings" (Gény 1919: 119). The resources of the current language are at the disposal of the legal technician to develop the legal norm. The words from the ordinary language, by inserting in the formulation of a legal norm, change their nature, transforming into legal concepts, and their meaning constitutes an integral part of the norms to whose elaboration they contribute.

Thus, legal vocabulary is defined as a set of terms within a language that have in this language one or more legal meanings (Fiodorov 2018: 97-103). Legal texts are divided into chapters, sections, and articles to make the regulations contained therein more easily accessible. The language used in normative acts is part of the language of legal specialty. Emphasizing the relationship between law and language, English doctrine has shown that "Language is medium, process and product in the various arenas of law where legal texts, spoken or written, are generated in the service of regulating social behavior" (Maley 1994: 11). In addition, „the law is understandable to the recipient only if it serves their communicative needs. The coherence of the law is one of the conditions of the intelligible law" (Osiejewicz, 2020).

Legislative language is not only an external formula of the legislator's decisions, but it is a structured language, with its internal dynamics, with its own content and form. So, the language issue that the legislator should resolve is rather complicated. It seems incredibly difficult or very challenging to achieve the goal of translating the complexities of thought into a simple text that seeks to be used by everybody in the same manner. The rules of legal linguistics are usually used to achieve this goal (Duminică 2021: 7-18).

The word choice, the syntax, and the textual organisation are three equally key factors that the law's drafter should consider.

REQUIREMENTS OF THE LEGISLATIVE LANGUAGE ENSHRINED BY THE ROMANIAN NORMS OF LEGISLATIVE TECHNIQUE

The Law No. 24/2000 On the Rules Of Legislative Technique, chapter IV, headed "Drafting normative acts", specifies the requirements relating to the quality of the language used by the legislator while drafting a normative act in Romania.

It follows from the text of Article 35 of this law that, in order to ensure a logical progression of the proposed legislative solutions and to achieve internal coherence of the normative act, the development of a plan for grouping concepts in accordance with their connections and natural relationships within the overall conception of regulation should take place prior to the writing of the text.

1. Clarity, Simplicity and Precision of Language

According to Romanian law, normative acts must be written in a particular normative

language and legal style that is clear, concise, sober, and exact, excluding any ambiguity, and that strictly adheres to grammatical and spelling rules.

It follows that the drafting of a normative act should comply with the following requirements: to be clear, i.e., easy to understand, unequivocal; to be simple, that is, concise, without unnecessary elements; to be precise, without leaving room for uncertainty in the mind of the recipient of the norm (Ghid 2021: 14-17).

These qualities are an application of two general legal ideas, namely the principle of legal certainty and the principle of the equality of all people before the law.

The equality of citizens before the law is enshrined in the Romanian Constitution by Article 16 which stipulates in Paragraph 1 that "Citizens are equal before the law and public authorities, without privileges and without discrimination", which means that the law must be accessible to all and understood by ordinary citizens, regardless of level of education, level of culture, position in society, etc.

In Romanian law, the idea of legal security is not explicitly codified as a rule of law in and of itself; rather, it follows implicitly from Article 1 Paragraph 3 of the Constitution and is seen as a corollary of the rule of law. From the perspective of drafting the law, in essence, the principle of legal certainty includes the following aspects: non-retroactivity of the law, accessibility and predictability of the law, unitary interpretation of the law, coordinates whose observance is a sine qua non condition for quality legislation.

Both accessibility and predictability presuppose that the norm's public nature is a fundamental component of its legality, that its content is clear and understandable for everyone with average intellect as well as for legal experts, and that normative updates are predictable. Therefore, the two concepts are closely related and in a relationship of interdependence, stating in this sense that "accessibility is the immanent condition of predictability: to predict, however, you must have access to sufficient and comprehensible information. The phrase accessible and predictable, thus, evokes a sui generis causal chain. Accessibility and predictability are not just a formal category-pair, but a dialectical unit" (Deleanu 2011: 53).

So, it is important that the requirements of clarity, precision, and simplicity of the language used to be observed when it comes to its drafting in order to fulfil the objectives of accessibility and predictability of the law.

2. Vocabulary Topicality and Ensuring Terminological Unity

The standards of legislative technique that prevent the use of neologisms, assuming there is a synonym for widespread in Romanian, reinforce the notion that the drafting of the law must be subordinated to the desideratum of the simple interpretation of the document by its recipients. In cases where the use of foreign terms and expressions is required, their correspondent in Romanian will join, as appropriate. The texts are written using words from the modern Romanian language with their present meanings, eschewing regionalisms.

Article 37 of the Law No. 24/2000 also establishes that in "normative language the same notions are expressed only by the same terms. In the event that a notion or term is not established or may have different meanings, its meaning in context is established by the normative act that establishes them, within the general provisions or in an annex intended for

the lexicon and becomes mandatory for normative acts from the same area. The expression by abbreviations of some names or terms can be done only by explanation in the text, at the first use".

Although it is required by the rules of legislative technique that words be used in the legal texts' current meanings in contemporary Romanian, it is important to remember that one characteristic of legal language is the use of expressions that are similar to those used in everyday language but, most frequently, have a different meaning. Words such as "property", "possession", "loan", "obligation", "goods", etc. have a different meaning in legal language than the usual one, being terms of legal specialty. Therefore, in order to avoid unintelligible wording for the ordinary citizen, if words with a meaning different from the one in the usual language are used, it is recommended to define the terms by the legislator.

The definition of concepts is both a condition of scientific precision and a condition of social efficiency of the rule of law. This consists in assigning a clear and precise meaning to the notions used in the construction of the normative text, which contributes to its intelligibility. In this sense, it was stated that "the first of the conditions that ensure the practicability of the law is a sufficient definition" (Dabin 1969: 268).

A good definition of the terms used helps to discover the scope of the regulations, to notice the nature of legal institutions and as such to ensure the practicability of the rule. However, this does not mean that every term used in the elaboration of concepts is defined. Law texts are not doctrinal or didactic works, which means that legal definitions should not be abused. If notions already existing and clarified in other normative acts are used, the definition of terms can be abandoned, thus avoiding repetitions that can be confusing.

In the literature, it is recommended that the terminology used should be uniform both within the provisions of the same act, so as to avoid contradictions, and between that act and those already in force. The same concepts are expressed in the same terms and as far as possible, without departing from the meaning they have in current language, legal or technical (Naschitz 1969: 256-257; Mrejeru 1979: 103; Ţăndăreanu, 2003).

3. Rules regarding the Expression of the Normative Content

The Romanian legislator emphasises the requirement for the wording of the articles to have a dispositive character and to provide the established norm without explanations or reasons in relation to the expression of the normative content.

The imperative nature of that provision is typically emphasised by using verbs in the present tense, affirmative form, and the employment of interpretational norms is only permitted insofar as it is strictly necessary for interpreting the text.

According to Article 16 of the Law No. 24/2000 On the rules Of Legislative Technique, in the legislative process it is forbidden to establish the same regulations in several articles or Paragraph of the same normative act or in two or more normative acts. The reference rule is used to emphasize legislative connections. If there are any parallelisms, they will be eliminated either by deleting the redundant provisions or by consolidating them into a single regulation. They are a part of the process of having laws that are concentrated into a single regulation and laws that are distributed throughout the currently in effect legislation. It is advisable to only cite the relevant texts in a normative act that is based on and implemented

in accordance with a higher-level normative act rather than copying its specific contents verbatim. In such circumstances, it is only possible to develop or detail the answers from the fundamental act by adopting certain standards from the basic act.

Last but not least, the legislative text must be written in a clear, fluent, and understandable manner, free of grammatical complexities and ambiguous or opaque portions. Emotionally charged language is not permitted. The legal style, accuracy, and clarity of the requirements should not be compromised by the expression's form or aesthetics.

THE STRUCTURE OF THE NORMATIVE ACT

The legal content has a purely intellectual character, being about the will of the legislator. In order for this content to be accessible to its recipients, it is necessary to externalize it in a certain form. Therefore, "the legal form is the sensitive expression of the legal content" (Dănișor 2008: 226).

The normative act should achieve a grouping of the legal norms that it comprises in certain fundamental components, which in turn will form the structure of the normative act, in order to react to specific requirements of legislative method. A network of relationships between the normative act's component elements is considered to represent its structure. These relations between the constitutive elements of the normative act are relations of complementarity and coordination, on the basis of which the systematization of the normative material is realized and the unity of the regulations included in the normative act is ensured. The way of placing the constitutive elements of the normative act and the relations between them are likely to give the normative decision of the public authorities its own architecture, unmistakable with other elements of legal construction (Vida, 2012).

The form of expression of normative acts is pre-established by the provisions of Law No. 24/2000 On the Rules Of Legislative Technique within a distinct section, suggestively entitled "Constitutive parts of the normative act". The title and, when relevant, the preamble, the introductory formula, the operative part, and the formula for attesting the authenticity of the act are thus deemed to be the constitutive elements of a normative act under the legal provisions. This structure is adapted depending on the type of normative act, its scope and the object of regulation.

Therefore, a first constitutive element of the law is its title which, according to Article 41 Paragraph 1-2 of the Law No. 24/2000 On the Rules Of Legislative Technique, includes "the generic name of the act, depending on its legal category and the issuing authority, as well as the object of the regulation expressed synthetically. The legal category of the normative act is determined by the regime of competences established by the Constitution, laws and other normative acts by which prerogatives of legal regulation are granted to public authorities". Therefore, the title of a law is considered to be the element on the basis of which its identification is made in all normative acts and can be expressed by a descriptive formula such as "law on ..." or "law regarding..." or in a substantivized form "Law on social assistance", "Law on national education". The title is necessary to be short, suggestive, to clearly express the content of the regulation, and after the adoption of the law, it is completed with a serial number and the year of adoption. Moreover, Law No. 24/2000 explicitly forbids that the title of a drafted normative act be the same as the title of another normative act that is already

in action. The title of laws that amend or supplement another normative act will, last but not least, represent how the law works to amend or supplement the targeted normative act.

Regarding the preamble, it is considered an optional element, which precedes the introductory formula, cannot contain directives or rules of interpretation, being rarely encountered in the case of laws and expresses, briefly, the purpose of the normative act and, as the case may be, its motivation. The only situation where this optional nature does not apply is when the government issues emergency ordinances; in this case, the preamble is a crucial component of the structure of the normative act by law and is made up of a description of the factual and legal aspects of the extraordinary circumstance that gave rise to the appeal for this particular method of regulation.

The introductory formula is that part of the law that indicates the legal, constitutional basis, based on which the regulation is given and consists of a sentence that contains, according to Article 42 Paragraph 1, 2 and 3 of the Law No. 24/2000, "the name of the issuing authority and the expression of the decision to take the decision regarding the issuance or adoption of the respective normative act. In the case of laws, the introductory formula is as follows: The Romanian Parliament adopts this law. For the acts of the Government the introductory formula is: Pursuant to Article 108 of the Romanian Constitution, republished, the Government of Romania adopts the present decision or, as the case may be, the ordinance. The ordinances also refer to the empowerment law. At the emergency ordinances, the introductory formula is: Pursuant to Article 115 Paragraph. 4 of the Romanian Constitution, republished, the Government of Romania adopts the present emergency ordinance. To the decisions given in the express execution of some laws is added the basis of the respective law".

The dispositive element of a law, which is made up of the collection of normative guidelines and legal standards established for the domain of social relations that constitutes its aim, is its most significant constituent element. The operational part of a legislation typically consists of broad principles, content provisions, transitional provisions, and final provisions. According to Article 52 of the Law No. 24/2000 On the Rules Of Legislative Technique "The general provisions contain statements that guide the entire regulation, determine its object and principles. They are grouped in the first chapter and are not repeated in the rest of the regulation, unless they are strictly necessary for the understanding of some provisions with which they form a unitary whole". The largest scope of the law is in the content provisions, which are divided into parts, titles, sections, subsections, etc. The final provisions enshrine issues pertaining to the application of the law, its entry into force, and the resolution of incidents that the act produces on other acts with which it interacts, while the transitional provisions contain the measures to be established regarding the development of legal relations arising on the basis of the act. In some cases, they can be used, as components of the law and annexes that include provisions regarding numerical expressions, statistics, drawings, sketches, plans, flow charts, etc. for the purpose of law enforcement.

At the same time, the operative part of a law is a form of expression of legal norms, being composed of articles placed in a certain order.

In the literature, the article was defined as "the smallest subdivision of the normative act that must have a unitary character, expressing a single command, or sometimes several, but all subsumed to one and the same idea. A heterogeneous article, which violates the

above idea, is a technical failure, because it will be very difficult to quote, and any references to it in other texts would fall into ambiguity" (Zlătescu 1995). There may be only one or more articles in the composition of a law, in relation to the object and purpose of the legal regulation. The article, in turn, may consist of one or more Paragraph, in the event that the provision contained is expressed in several sentences or contains several problems. The Paragraph represents a part of the article, which reveals an independent position only in the context of the article, and not in relation to the norm contained in the respective article.

Therefore, in the doctrine (Mrejeru 1979: 114-125) it was shown that there is a deep unity of content between the two elements of structure, the respective division being of a technical nature, obviously with legal consequences easily identifiable in case of abrogation or partial completions of law, when the reference may concern the whole article or only one or more Paragraphs of the article in question.

Regarding the formula for attesting the legality of the normative act, it is used both in the case of draft laws adopted by a Chamber and in the case of laws to be promulgated. These final formulas of the law have the role of attesting the fact that the law was adopted in compliance with the constitutional, legal or regulatory provisions and at the same time allow the identification of the nature of the law. Thus, the reference made to Article 151 of the Constitution indicates a constitutional law; the one made to Article 76 Paragraph l of the Constitution indicates an organic law, and the reference to Article 76 Paragraph 2 indicates an ordinary law.

Besides, government ordinances are signed by the prime minister and countersigned by ministers who are responsible for enforcing them. Laws are signed by the presidents of the two Chambers or by the vice presidents who presided over the meeting at which the law was enacted. After promulgation, the law, together with the decree of the President of Romania confirming this stage of drafting the law, is sent to the Chamber of Deputies where it receives a number and is registered in the Law Register, the number being accompanied by the registration date, which is the law.

CONCLUSION

In conclusion, the way of choosing the external form of regulation, the way of legal regulation, the conceptualization procedures and the observance of the requirements of the legislative language depends on ensuring the accessibility of the new legal rule.

Legislative language is the bearer of a cultural dimension that is reflected not only in the specific terms of a legal system, but also in its own ways of expressing them. The language of normative acts is governed by pragmatic principles because it is a formalised language. According to the examined standards for legislative technique, it is necessary to avoid neologisms, regionalisms, non-functional expressions, and words with uncertain meanings while creating laws and instead employ widely used terms. The requirement of the correct and simple understanding of the text by any subject, not just by the legal specialist, must take precedence over the sentence structure and style of expression. Law terminology needs to be consistent and standardised. This requirement applies to the entire body of law, not just the specifics of one normative act. It must exhibit terminological unity because this unity lays the groundwork for the subjects' ability to comprehend the message of the law with clarity.

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LEGAL IMPLICATIONS OF UNCLEAR REGULATION OF RESPONSIBLE SUBJECTS IN THE FULFILLMENT OF HUMAN RIGHTS

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Abstract. This study aims to provide an in-depth understanding of the legal implications which arise regarding the subject and scope of responsibility for the fulfillment of human rights including the social security rights of Indonesian citizens, as referred to the Constitution as the highest law and to reflect on the purpose of law or constitution (conclusion of law, legal discovery). This type of research is normative juridical, with a philosophical approach, a conceptual approach and a statutory approach. Data analysis was carried out using qualitative techniques with descriptive analysis. The research results show that there is no clarity regarding the legal implications of the subject and the scope of responsibility for the fulfillment of human rights including social security rights. This ambiguity occurs because of the blurring of legal norms regarding human rights in the 1945 Constitution of the Republic of Indonesia, particularly regarding the regulation of the responsibility for the fulfillment of human rights including social security rights, regarding the subjects who must be responsible for and the scope of their responsibilities for implementing social guarantees.

Keywords: Legal implications, Fulfillment of Human Rights, Social Security Rights, The 1945 Constitution.

INTRODUCTION

Indonesia is a state based on law, a state whose governance and social systems are governed by law, this is in line with the provisions of the 1945 Constitution of the Republic of Indonesia (the 1945 Constitution) which clearly formulated "Indonesia is a state law". Through the 1945 Constitution, the Indonesian State affirms itself as a welfare state, a state founded with the aspiration to realize general welfare and social justice for all Indonesian people. It is stated in the fourth paragraph of the Preamble to the 1945 Constitution.

A country is said to be prosperous if it has an ideal development model, and aims to improve the welfare of its people by providing maximum service to social infrastructure facilities as a whole and comprehensively (Suharto, 2006). Hidayat (2016) stated "In the minds of our founding fathers, the independent state of Indonesia was a welfare state. Not liberal country or country in any other form". However, social facts show that there are still many Indonesian citizens who do not get services and fulfill their rights to social security, namely the right to health social security. August 1, 2019 the number of Indonesian citizens participating in Health insurance was 223,347,554 (BPJS, 2019). Indonesia's population has reached 267 million people since 2019, it shows the ontological fact that there is inequality in citizens' access to social security rights. This social security right is a human right which should be fulfilled. Based on this data, it is estimated that there are 44 million people who do not have access to health social security services from the state.

The 1945 Constitution as the highest law has specifically regulated social security, at least in the provisions of Article 28H paragraph (3) and Article 34 paragraph (2). The inclusion of the right to social security in the constitution shows the seriousness and importance of the state's responsibility for granting this right to its people. The Constitution only regulates norms which apply in general, does not regulate rigid and technical norms. However, the formulation of norms in the 1945 Constitution does not explicitly place who is the subject who must be responsible for fulfilling social security rights for their people.

Paragraph (4) of Article 28I of the 1945 Constitution provides an explanation of the fulfillment of social security for Indonesian citizens. However, the formulation of Article 28I paragraph (4) creates unclear who is responsible and how big the scope of responsibility is in fulfilling human rights including the right to social security for every Indonesian citizen. The issue of the subject who must be responsible becomes blurred with the formulation of the norm "the responsibility of the state, especially the government". According to these norms, are other legal subjects, besides the government, responsible for the fulfillment of human rights? Who are they? Such a formulation as "especially the government" provided in the norm also raises questions. How heavy is the responsibility of the government to fulfill the human rights of Indonesian citizens according to the 1945 Constitution?

Based on the description above, there is a blurring of norms in the 1945 Constitution in terms of who are the responsible subjects and the scope of their responsibilities for the fulfillment of human rights including social security rights. The blurring of norms in the 1945 Constitution has in fact led to different legal interpretations by the government and the People's Representative Council (DPR) in drafting laws as implementing regulations for the provisions on social security rights in the 1945 Constitution. The blurring of norms has also given a rise to new meanings carried out by the Constitutional Court (MK). The

Constitutional Court stated that norms related to social security have been regulated in Article 34 paragraph (2) of the 1945 Constitution. The legal norm is an "open legal policy", meaning that it leaves it to the legislators to regulate and make policies which are free.

It is based, affirming the meaning of the norms of the 1945 Constitution is important to clarify social security arrangements in accordance with the ideals of the nation's founders who have liberated the nation and formulated them in the 1945 Constitution as a whole. Theoretically, the concept of a welfare state is a state which places the welfare of its citizens in the hands of the government (the government is fully responsible for meeting the basic, social and economic needs of every citizen to achieve a decent standard of living). Juridically, the 1945 Constitution is the highest constitution or law in the legal system in Indonesia, so all rules in the form of laws and other implementing regulations must be in accordance with the intent of the articles of the 1945 Constitution. Based on the research background, this study aims to determine legal implications arising from the unclear regulation of responsible subjects and the scope of their responsibilities for the fulfillment of human rights, including the social security rights of Indonesian citizens.

RESEARCH METHOD

This research is a normative juridical research. The main research method is a legal research method which bases its analysis on applicable laws and regulations which are relevant to the research topic. Based on its type, the legal materials in this study consist of primary legal materials (consisting of the 1945 Constitution of the Republic of Indonesia, the RIS Constitution and the UUDS, along with their discussion texts, as well as the Rulings of the Constitutional Court of the Republic of Indonesia), secondary legal materials (consisting of international instruments resulting from congresses of world bodies (UN) and ILO (International Labor Organization) which contain international policies in the field of Social Security and Human Rights; legal doctrines, concepts, theories and expert opinions related to constitutional law and Social Security contained in written form (books, texts, legal journals and papers or views of legal experts published in the mass media as well as direct interviews to deepen analysis), and tertiary legal materials, consisting of the Big Indonesian Dictionary and the Legal Dictionary which provides definitions of etymology (word or grammatical meaning) for the terms - certain terms especially those that related to the title variable component. Data collection techniques were carried out through literature and internet searching. Data analysis was carried out using qualitative methods which were presented systematically by analyzing descriptive analysis (Marzuki, 2005).

RESULTS AND DISCUSSION

A. There is No Clear Legal Subject who is Fully Responsible for the Fulfillment of Human Rights for Everyone

Three main elements characterize the concept of human rights (HAM), namely human integrity, freedom and equality. Each of these elements provides its own definition related to the conceptualization of human rights and the understanding of human rights itself. In the relationship between individuals and the state (vertical context) and between individuals (horizontal context), humanization occurs when a person gets de facto and de jure

recognition of his rights as a human being. Over time the concept of human rights changed both through evolutionary and revolutionary processes (Huijbers, 1990). The concept of human rights changes from a normative force into a process of social and political change in the whole order of human life. So that the meaning and understanding of human rights in terms of substance needs to be reviewed and returned to the main concept, namely the basic concept of why human rights regulations must be regulated, what human rights are, and why there must be human rights. The emergence of human rights with the reason that human rights are very fundamental and very important for individual welfare, and human rights need to exist with the aim that individuals can develop according to their talents, aspirations and dignity as human beings regardless of differences that cause discrimination based on nation, race , religion and gender (United Nation, 1998).

Human rights are implemented by the state and each individual in accordance with their respective portions and roles. Human rights contain authority or freedom, individual responsibility or obligation. This is a principle of balance related to the role of the individual in the context of human rights. Individuals as human rights subjects are obligated and responsible for mutual respect for the human rights of other individuals, as other individuals must also respect their human rights. If human rights violations occur between individuals, individuals must be held accountable before the law for these actions. It is based, the government's role is very important and central in terms of the implementation of human rights. The state, which is an instrument of human rights, has a full obligation to implement the concept of human rights. The state must guarantee respect for human rights, besides that, human rights must also receive protection from the state, and the state is obliged to promote and fulfill the human rights of all its citizens. The action of implementing human rights by the state is carried out in 4 ways including respecting, protecting, advancing and fulfilling.

Based on international human rights instruments regarding the obligations of the state for the implementation of human rights, there are differences between civil and political rights, and economic, social and cultural rights. Civil and political rights: the steps required by the International Covenant on Civil and Political Rights (ICCPR) for a country are to take immediately the necessary steps in the field of legislation, for example by strengthening the Law regulating human rights. Emphasizing in this regard is the effort to add regulations on human rights or change existing laws in order to respect and guarantee the implementation of civil and political rights. Economic, social and cultural rights: the State is obliged by the International Covenant on Economic, Social and Cultural Rights (ICESCR) to take steps including maximizing the use of its resources. It is done with the aim of realizing economic, social rights and progressive culture. The implementation of the realization of political and civil rights does not require large economic resources. It does not mean that the state will realize human rights in the economic, social and cultural fields when the country has reached a certain level of economic growth. In this case, it can be concluded that regardless of the level of economic achievement, the state must immediately realize human rights in this field (economic, social, cultural).

An example of the implementation of human rights in the economic, social and cultural fields is that the state immediately reforms laws and regulations which are discriminatory in

nature or prevent people from enjoying their rights, or laws and regulations which "facilitate" violations of rights by the state. Steps like these do not have to wait until the country is truly prosperous. When a country ratifies an international human rights instrument, it can directly incorporate the provisions of that instrument into its domestic legislation through other steps. The implementation of human rights can be carried out properly if there are good laws, an independent judiciary and established democratic institutions. In addition, education and dissemination of human rights values are also very important efforts in the framework of human rights implementation. Thus it can be seen that the Government is only obliged in the main priority scale, because there are many subjects related to responsibility for the fulfillment of human rights (distribution of obligations), including those related to social security rights.

Then who are other legal subjects that can be legally held accountable? If you pay attention to the formulation of norms in Article 28I paragraph (4) of the 1945 Constitution, the phrase: "... the responsibility of the state, especially the government". It shows that there are other subjects in the state besides the government, which have an obligation to fulfill human rights in Indonesia. The ambiguity of norms regarding other subjects who are given responsibility for the fulfillment of human rights besides the government, makes the responsibility for the fulfillment of human rights unclear, and it is not clear who can be held responsible, apart from and after the government.

B. There is No Clear Limit of Responsibility for Every Legal Subject in the Fulfillment of Human Rights for the Community

As a country which has a bad record of human rights violations in the past, the implementation of the obligations of the Indonesian government in implementing the fulfillment and protection of human rights, of course, cause a concern, not only by its people but also by the international community. History records that human rights violations are related to the weakness of the law enforcement system and the government's political will in implementing human rights norms. The fulfillment and protection of human rights in Indonesia must be placed within the framework of the rule of law in order to gain a legal, constitutional and institutional base. In order to measure the performance of the government with regard to the obligation to implement the fulfillment and protection of human rights, we need to define what the government needs to do to implement the rights and then compare it with the commitment and capacity to do so. This commitment and capacity can be seen from the efforts made by the government and their achievements. Because of that we are required to be able to formulate indicators which can assess the level of willingness and ability of the government in fulfilling its obligations. The government must also move away from a tendency to play only at the formal legal level or stop at normative or political aspects only towards real or substantial commitments which are realized through steps such as: "The harmonization of regulations and laws is carried out by revising or revoking regulations or laws which have the potential to violate human rights and enact laws which support the realization of rights. There is a budget allocation for the implementation of human rights. The allocation of the budget for the implementation of human rights shows that the government gives priority to the implementation of human rights. Particularly with

regard to the fulfillment of social and social economic rights, it is necessary to have concrete steps that can be accessed and enjoyed by the community, especially marginalized groups and other things" (Nasution, 2003).

The implementation of fulfilling and protecting human rights can now also be used as a basis for the legitimacy of government power. Thus, the government continues to be encouraged to carry out its obligations to guarantee people's rights to obtain welfare through joint efforts called "development". In this concept, development is no longer limited to its definition as a program (especially as an ideology) of the government, but rather as a part of a democratic national activity to fight for freedom from wants. Thus, everything depends on the provisions of the sectoral law, the subjects referred to when formulating the norms for regulating the responsibility for fulfilling human rights in the 1945 Constitution of the Republic of Indonesia and how the provisions of the sectoral law are regulated, and what the forms of their responsibilities and the limits of their responsibilities for the fulfillment of rights related to social security (Soetandyo, 2007).

Then what about the limits of authority and responsibility of subjects who are given the obligation to fulfill human rights, including the limits of government authority and responsibility for the fulfillment of human rights as meant in Article 28I paragraph (4) of the 1945 Constitution. The same thing also becomes a question of when the limits of responsibility move from the government as the main subject to other subjects in fulfilling human rights. This problem arises as an implication of the ambiguity of subject norms and their authorities and responsibilities for the fulfillment of human rights based on the provisions of the 1945 Constitution norms.

C. Ambiguity of Public Claim Rights on Legal Subjects Who Are Fully Responsible the Fulfillment of Human Rights in Demanding Fulfillment of Obligations related to Human Rights

Citizens' lawsuits against state administrators have never actually been recognized in the Civil Law legal system as implemented in Indonesia. Citizen Lawsuit itself was born in countries that adhere to the Common Law legal system, for example in the United States, India and Australia. And in its history Citizen Lawsuit was first filed regarding environmental issues. However, in its development, Citizen Lawsuit is no longer only filed in environmental cases, but in all areas where the state is deemed to have committed negligence in fulfilling the rights of its citizens" (Fadjar, 2018).

Characteristics of Citizen Lawsuit: "a) Citizen Lawsuit is the access of individuals or citizens to submit applications in court for funds on behalf of the interests of all citizens or the public interest; b) The purpose of the Citizen Lawsuit is to protect citizens from possible losses as a result of the actions or omissions of the state or state authorities; c) Citizen Lawsuit gives power to citizens to sue the state and government institutions which violate laws or fail to fulfill their obligations to implement laws; d) Individual citizens who become applicants in Citizen Lawsuit, lawsuits do not need to prove the existence of real or tangible direct losses; In general, the court does not accept compensation demands if submitted in a Citizen Lawsuit application" (Mahmoedin, 2010).

In principle, Citizen Lawsuit notifications must be made in written form and sent, both to the alleged violators and to agencies responsible for implementing the provisions of the

law which have been violated, as well as to state agencies responsible for enforcing the law. Notification in the Citizen Lawsuit must contain: "a) Information about the alleged violation by the relevant institution based on which the applicant intends to sue the defendant; b) Type of violation/object of lawsuit" (Hermawanto, 2008). Normatively, there are no Indonesian regulations governing Citizen Lawsuits. However, with many Citizen Lawsuit cases which have existed, we can analize their main features. The practice of Citizen Lawsuits in Indonesia has been submitted to the General Court (under the auspices of the Supreme Court). There are two main reasons why a Citizen Lawsuit is filed at the General Court. First, judicial power when the Citizen Lawsuit first appeared in Indonesia, was only in the Supreme Court. So that the Citizen Lawsuit, like other lawsuits, is filed at the General Court (District Court). Second, there is no regulation governing Citizen Lawsuit in Indonesia. So based on the principle "a judge may not reject a case on the grounds that it has no legal basis", then this is the reason behind the Citizen Lawsuit in Indonesia being submitted to the General Court. In substance, the submission of a Citizen Lawsuit to the General Court is inappropriate (Gumayra, 2006). Basically Citizen Lawsuit is a legal effort from citizens to dispute the responsibility of state administrators for negligence in fulfilling citizens' rights. The rights of citizens in a country based on law (rule of law), such as Indonesia, have been regulated in the 1945 Constitution.

Human rights are also regulated in the 1945 Constitution. So the rights of citizens are usually referred to as "Constitutional Rights of Citizens". Talking about the constitutional rights of citizens, lets intersect with an institution which functions as a constitutional review, namely the Constitutional Court. The Constitutional Court has the authority to examine disputes between citizens and state administrators on the grounds that state administrators have been negligent in fulfilling citizens' rights. In other words, the Constitutional Court has the authority to adjudicate Citizen Lawsuit cases. Indonesia as a democratic country and based on law as Article 1 Paragraph (2) and (3) of the 1945 Constitution, which already has a Constitutional Court with a constitutional review function. Implementing a Citizen Lawsuit with the authority in the Constitutional Court is not impossible. And the government must have the courage to make regulations regarding Citizen Lawsuit in Indonesia under the authority of the Constitutional Court. As we know in Indonesia there are no statutory regulations which specifically regulate Citizen Lawsuits. So far, Citizen Lawsuit practices have only based on Decision Number: 28/Pdt.G/2003/PN. JKT.PST which was decided on December 8, 2003 between J. Sandyawan Sumarji and friends (a total of 53 people) as the Petitioner/Plaintiff against the State of the Republic of Indonesia c.q Head of State, who at that time was the President of the Republic of Indonesia Megawati Soekarno Putri as the Defendant.

This case is commonly referred to as the "Citizen Lawsuit Nunukan". This lawsuit was granted by the Panel of Judges, Central Jakarta District Court with the contents of the Decision as follows: "a) Law Number 14 of 1970 concerning Basic Provisions of Judicial Power jo. Law Number 35 of 1999, Article 14 Paragraph (1): The court may not refuse to examine and try a case submitted on the grounds that it is unclear or unclear, but is obliged to examine and try it; b) Article 27 of Law Number 14 of 1970 concerning Basic Provisions of Judicial Power: Judges as enforcers of law and justice are obliged to explore, follow and understand the values that live in society; c) The petition filed is a citizen lawsuit commonly

known as actio popularis, namely a lawsuit filing procedure that involves the public interest on a representative basis; d) Every citizen without exception has the right to defend the public interest. Thus, every citizen on behalf of the public interest (on behalf of the public interest) can sue the state or government or anyone who commits an unlawful act, which is clearly detrimental to the public interest and broad welfare (pro bono publico). This is in line with the human rights principle regarding access to justice if the state is silent or does not act in the interests of its citizens (access to justice)".

Based on the decision above, it shows that there is a legal void related to Citizen Lawsuit in Indonesia. In addition when deciding cases, judges resort to the Judicial Powers Act, which establishes that "judges may not refuse cases". Therefore, it is necessary to establish/ compile regulations governing Citizen Lawsuits in Indonesia. In the Citizen Lawsuit the main point is the rights of citizens who are neglected by state administrators. Of the several Citizen Lawsuit cases which have existed, most of them are concerned with violations of human rights. The main problem with this Citizen Lawsuit is that there is no legal basis and the authority to try them. Is it the Supreme Court or the Constitutional Court? For now, the Citizen Lawsuit case is still being carried out/accepted by the General Court with a legal ratio as Decision Number: 28/Pdt.G/2003/PN. JKT.PST which was terminated on December 8, 2003, namely that judges may not reject cases. Even though at this time, as Article 24 Paragraph (2) of the 1945 Constitution notes that "Judgmental power is exercised by a Supreme Court and judicial bodies under it in the general court environment, religious court environment, military court environment, state administrative court environment and by Constitutional court" (Mahmodin, 2010).

The point is that judicial power for now is not only in the Supreme Court, but also in the Constitutional Court. Then there is the potential for Citizen Lawsuit cases to be registered/ disputed at the Constitutional Court. Because constitutional judges may not reject a Citizen Lawsuit case on the grounds that there is no legal source. Article 24C of the 1945 Constitution provides limitations on the powers of the Constitutional Court. However, based on Article 1 Paragraph (2) and (3) of the 1945 Constitution, in accordance with the principles of constitutionalism and respect for, protection and fulfillment of human rights, it is explained that the important markers of a democratic state and a rule of law are: "First, the constitution (UUD 1945), as the highest law, must be properly implemented in the administration of state life; Second, human rights are recognized as constitutional rights of citizens, which means that they have become part of the provisions of the constitution, so that all branches of the Indonesian state power are bound to obey them" (Hermawanto, 2008).

Citizen Lawsuit is a lawsuit filed with the hope of fulfilling human rights (because it has been included in the 1945 Constitution, referred to as Citizens' Constitutional Rights). While the Constitutional Court was formed as a form of guardian of the Constitution (UUD 1945), the Constitutional Court is required to guarantee that the 1945 Constitution is truly embodied and adhered to in practice, including guaranteeing that constitutional rights for citizens are truly respected, protected and fulfilled in the practice of state administration. The position of the Constitutional Court is to be able to hear Citizen Lawsuit cases by presenting every citizen as the plaintiff or applicant and the government as the defendant/ respondent, with a request for the fulfillment of citizens' constitutional rights (in which

there are human rights). For example, the right to education, health, to religion and belief. With the position of the Constitutional Court, actively adjudicating Citizen Lawsuit cases, the function of the Constitutional Court as an institution guarding the Constitution will be further felt by citizens. The Constitutional Court is not only trapped in one authority, namely examining laws against the 1945 Constitution. One of the reasons laws are being tested against the 1945 Constitution is that there are constitutional disadvantages for citizens contained in the relevant law. It shows that legislators consider that violations of citizens' constitutional rights are due to statutory norms alone. For example, the APBN law does not provide for a 20 percent (%) budget allocation for education, it is contrary to the provisions stipulated in Article 31 Paragraph (4) of the 1945 Constitution" (Hermawanto, 2008).

In fact, violations of citizens' constitutional rights are not only a matter of norms in laws. However, more dangerous are the direct violations committed by the government either by action or by omission. The position of the Constitutional Court is to hear citizens' lawsuits against the state/government on the grounds that citizens' constitutional rights have been violated. By itself this is a new offer for the Constitutional Court to be able to provide protection for human rights and the constitutional rights of citizens by using the Citizen Lawsuit mechanism. Based on the discussion above, it can be concluded that a citizen lawsuit is a mechanism for fulfilling human rights and constitutional rights of citizens and it is possible for the Republican Constitutional Court to examine, hear and decide on citizen lawsuits using a basic law (Judicial Power Act). However, the state should revise the Constitutional Court Law and further efforts are necessary to make the fifth amendment to the provisions of the 1945 Constitution.

As a follow-up to the unclear subject, authority and responsibility for fulfilling human rights, it makes the right to sue everyone who feels their human rights have not been fulfilled or their human rights have been violated lose their right to sue in court (justiciability). It happens because everyone who will sue in court It must be clear, who will be sued, what legal violations have been committed and responsibilities that have been violated or not carried out. And because the subject and its responsibilities are not clearly regulated in the 1945 Constitution or in the Sectoral Law, this subject cannot be sued in court and asked to make compensation or rehabilitation.

CONCLUSION

There is a lack of clarity regarding the arrangement of responsible subjects and the scope of their responsibilities for the fulfillment of human rights, including social security rights in the 1945 Constitution. It happens because there is a legal ambiguity about who are the subjects who must be responsible and the scope of their responsibilities in the implementation of social security according to the 1945 Constitution.

The lack of clarity regarding the regulation of responsible subjects and the scope of their responsibilities for the fulfillment of human rights, including the social security rights of Indonesian citizens in the 1945 Constitution, has resulted in the absence of legal protection for Indonesian people, especially in relation to human rights. This is due to the absence of clear rules governing the regulation of the responsibility for the fulfillment of human rights including social security rights, namely regarding which subjects must be responsible for

and the scope of their responsibilities for implementing social security according to the 1945 Constitution.

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YOUNG WRITER'S CORNER

Magdalena Ducka, Mentor: Joanna Osiejewicz (2022). Do Lawyers Speak a Different Language? A Short Analysis of Lawyers Professional-Scientific Language and its Impact on Lawyer-Client and Lawyers' Communication in Private Life
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DO LAWYERS SPEAK A DIFFERENT LANGUAGE? A SHORT ANALYSIS OF LAWYERS PROFESSIONAL-SCIENTIFIC LANGUAGE AND ITS IMPACT ON LAWYER-CLIENT AND LAWYERS' COMMUNICATION IN PRIVATE LIFE

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Abstract. Every nation has their own characteristics of not only inhabitants of particular country, but also concrete professions which they do for living. First, which usually come to one's mind, are medical practitioner, teacher, lawyer and computer scientist. Why do societies pay so much attention to those, even though hundreds of them already exist? The most relevant explanation is related to importance to one's living, because people are able to do without a cook, but seldom do they poses knowledge on how to win their case in court or how to cure cancer.

Keywords: lawyers, communication, society, personalized, speech, law, provision of law, lawyer-client relationship

MAIN PURPOSE

In this paper I would like to draw attention to one of four professions of public trust mentioned above, which arouses more controversy than medical profession. Lawyers are recognizable in the society not as their outfits, but mostly, because of demands and expectations created by studies and society. Lawyers need to communicate with completely different types of people depending on, whether they are at their workplace (court or office) or spending time in their family house. They also should adjust their language to the level of education and self-awareness of colleagues, clients and family. The question which should arise immediately concerns changes in language which should appear depending on who they speak to; family, friends, coworkers or clients.

RESEARCH PROBLEM

The main problem is that the official language, which lawyers use during their professional work strongly impacts their ways of communication with people without proper scientific knowledge and with whom they meet the most frequently, namely, their clients and family.

PLACE IN THE SOCIETY

Let us take a closer look at the position of lawyers in the Polish culture and society. This profession belongs to one of the oldest in the history. Frankly speaking, seeking justice resembles more of a fundament of the world rather than plain possibility. Why have lawyers become so special?

Firstly, their position is mostly determined by their rhetorical and fluent knowledge of law, which means that they are capable of understanding the written regulations, as well as putting them in practice. The definition according to Cambridge Dictionary states that a lawyer is a person, whose job is to give advice to people about the law and speak for them in court. Considering years of development and the fact that the common state structure in Poland , which since 1990's remains a democracy, an increasing need for well-educated, highly trusted professionals, as well as with immaculate ethical level scientist in province of law was created (Dziurnikowska, 1997). One can see that this profession is necessary to take care of one's cases in terms of regulations. That is why they are respected. Obviously, in various kinds of democracies their main role is serving the citizens or representatives chosen of them, that is why the foremost component of lawyers work are clients, who have no need for understanding and gathering every single regulation or fiat. Thus, it is also visible that the lawyers are in between. Not only do they have to work with the law, but also with people who possess little knowledge about it. That draws attention to various kinds of communication levels, in which the specialist has to be fluent. At this point it is also relevant to emphasize that fulfilling duties of the profession of public trust generates also many expectations of official profile of lawyers. Their language, behavior, outfit, even the car their drive are not seldom being observed by possible clients. No one would like their representative to look worse than after a walk in heavy rain. Therefore, they need to keep the level of professionalism and show that they are worth the money they want to be paid.

LAWYERS FROM CITIZENS PERSPECTIVE

Hence, at this point, it is worth differentiating between two types of lawyers functioning in the society. This paper covers part of the law society which is Polish one, in minor contrast to American style, as it is closer equally to the author and readers, as well as more complex and engaging problem. Polish people associated with law have a special place, although they work in reality of this country which remains tough and demanding. For many, who do not know any lawyers themselves, they seem good-looking, with high salaries, fierce mind and speech. However, they tend to overlook the fact that this is mostly a created image rather than true appearance. That is proved by Karolina Kocemba in her paper: The "main" image of lawyers is created by stereotypes and pop-culture, which confuses future law students and the rest of the society. Because of that, lawyers in Poland are treated as an elite (Kocemba). Thus, one should ask, if it is possible to remain natural in contact without any implications on private life.

LAWYERS IN NUMBERS

The essential role of lawyers in society is also shown in statistics of how many students incept law studies every year. Only in 2022, at the University of Warsaw signed two thousand people signed for Law Degree and five hundred of them were accepted for full-time studies. At the most admired university of law studies in Poland, the Jagiellonian University, one thousand eight hundred thirty seven students applied. Even these numbers seem enormous, among past years the number of eager young people for this degree declined. The question is whether it is a problem of long term education or just the negative reception of people associated with law or so called palestra. One needs to realize that in next few years it will be extraordinary good when nearly half of accepted students, finish with their master's degrees. The next step of their educational process is taking up at least three years of application, which depends on the side in court they want to work in. Simultaneously, they need to work in order to gain experience in solving cases. Further on, they have to live a private life and remain capable of every day communication. As hard as it could possibly get, they cover four different levels of relationships, which includes adjusting their language to the place as well as things they do. They are: court, contact with colleagues, clients and family. Every single stage of communication, like speech in court or family dinner small talk, requires completely different skills and attitude, as well as a way of expressing their thoughts. Not rarely does the official law language interfere with other parties, which should not take place.

PROFESSIONAL LANGUAGE IN COURT

In court, these professionals need to be firm, bold as well as precise and scrupulous. They also live up to the Polish standards in this kind of place, which demands high respect from every party of the case. Otherwise, no one will be listening to. Moreover, before the case, they obviously go through every essential provision of law, also regulation or act. Therefore, it is necessary for them to be capable of understanding their sense and use it in practice. Not without a reason is the language of law distinguished from legal parlance. Both seem rather similar to foreign language than a speech of every citizen in Poland. Even professionals like journalists, who basically specialize in law, need help to understand the message, because the language used by lawyers in courts, prosecutors' offices and offices is sometimes an insurmountable obstacle for journalists from the press, radio, television and web portals where coverage of trials and investigations are realized. Legal and jurisprudential language is to many a hermetic world, to which translators are needed in order to understand (Tumidalski, 2016). Hence, their materials are inflected from the beginning by someone's personal decision, to explain the whole sense or only part of it. Therefore, the question is how a regular citizen can possibly understand it. That is why they need specialists, in terms of any contacts with law.

Lawyers in their workspace

It is also essential to emphasize that legal parlance appears not only in written acts or regulations. As it is widely known, lawyers usually work in legal offices as well as some of the national institutions as prosecutor's offices. Hence, they often discuss their cases with each other as well as cooperate while having one together. This also strongly influences the

way they speak to each other, thus they often use even the whole ready verbiage e.g. from the codex which they have just read. Obviously, they do not need to correct themselves, for why they are understood by their colleagues. Therefore, they get into a habit of formulating sentences in frequently unnatural way for the Polish speakers. Certainly, every single field of science and people associated with it generate their own technolects in some time (Colasuonno), which can be either easier or harder to understand by a third party listener. On the contrary to them, lawyers need to communicate with regular citizens in the one-third of their time which does not apply for the professions like computer programmers or even physicians when it comes to explaining tough, newest acts. The likelihood of changing the law here is much higher than, for example, introducing innovations into medicine, which simultaneously are crucial to patients. On the other hand, thanks to parlance lawyers can easily and efficiently communicate with each other, even though as an example they use only the name of the act, which on its own takes up place for three lines.

Lawyer-client relationship in Poland

As it was mentioned above, lawyers spend nearly one-third of their time on contacts with their clients. It is tough to generalize how much time one consultation takes, as it depends on various factors such as: type of the case, specific field in which lawyer works and personality of both sides of communication process. It is not impacted by the fact that there appear both a sender and receiver, who communicate via medium. Hence, this kind of relationship differs from natural ways of expressing one's opinion. Though, it is vital to perceive that this type of contact could be concerned as an outstanding case not only for juridical reasoning but also juridic discourse. One side to this reasoning, the client, states about the facts, and the other, the lawyer, refers to the law and makes a preliminary attribution of findings of fact to findings of norms (Lewandowski, 2018). Moreover, the way the lawyers speak to a client is also relevant to the case they deal with. Till the client does not support and fully understand the law regulations, there is no possibility that they would agree for any move in the court. All in all, it does enhance the fundamental role of lawyers' communication.

As it is widely known, the communication takes place on two various levels: verbal and non-verbal (Hirshfeld). Thus, it is not only knowledge and manner of expressing matter, but also clothes, behaviour and gestures.

In the Polish lawyers' offices it is more likely to meet rather cold, professional look rather than warm smile of a person who is dedicated only to their clients. The legal profession concentrates mostly on cases and scientific background, rather than on building at least a minor bond with a client. Especially when one of the professionals normally takes care of cases of domestic or international companies. They frequently lack on compassion and showing interest, as well as they do not concentrate on the way how they express themselves, not only regarding pronunciation and adequacy, but also the main content of message, which can be completely misunderstood by the client. Polish society, especially because of stereotypes, expects lawyers to be high-professional also that one won't understand them in total. They need to be effective, not especially customer friendly and concentrating on clients' emotional status in life. Hence, it is awaited of them to wear business attire and possess upmarket car, therefore they are representatives of individuals themselves. Facing reality, it

is also difficult to criticize lawyers, who are though to talk away. Those professionals belong to elite and one of the most intelligent community in Poland. That makes it harder to try to stand in the place with all the people from different social and education levels, because it requires a lot of soft skills. Naturally, making a generalization remains complex, because of various components involved in this kind of relationship. Especially regarding characters of both sides, this communication can be efficient or completely disturbed. Notwithstanding, the lawyers dominate over clients.

POLISH STYLE IN COMPARISON TO AMERICAN STYLE

Even though, there are various opinions about the Polish palestra, it undoubtfully distinguishes from the American one. Obviously, the nature of democracy plays a great role in this distinction. The relationship between lawyer and client in the United States of America is directed at clients and the fact that they seek lawyers usually when they come through with their life tragedy. That is why those professionals concentrate more on communication and showing compassion, rather than on they aim or wealth of individuals (Upcounsel). They always try to find the way to put the communication in the most understandable and personalized way. It should also be emphasized that American lawyers meet completely different expectations compared to their Polish colleagues. They do not tend to aspire for elite and meeting one's expectations, but they actually manage to take care of clients. Warm smile, straightforward as well as personalized messages can completely change the situation, sometimes even one's life.

LAWYERS IN PRIVATE LIFE

The other crucial aspect of lawyer communication forms their private relationship. It cannot be forgotten that behind knowledge, outsmarting opponent side in the court and helping people, they remain human beings with their right to rest and experience regular citizen life. If what appears interesting is how their profession influences the way they communicate in basic social contacts as with their family members and friends. The manner in which they speak as well as how easily or accurately they express their opinions can silence the majority of their interlocuters. Again, the lack of proper focus on the manner of speaking could cause difficulties.

LAWYERS NOWADAYS

The subject is so intriguing that the author decided to ask the Polish society about the their opinions. The survey was conducted via Google Forms between 13th to 18th January 2023. Thirty eight people took part in it, who has various educational background; from students to white collar workers. The nearly 95% of those filling this questionnaire are citizens of Poland. The research proved that lawyers are not the first choice when it comes to the question, without which profession people cannot imagine their lives. Lawyers are in between, after physicians, teachers, police officers and mechanics and before psychologists and cooks. Little do the members of the Polish society realize that they will sooner or later need to contact them. Until it is necessary, no one would think that they have to one day meet with a lawyer. Many believe that they will avoid this situation. That is why only 15% of people asked thought of them.

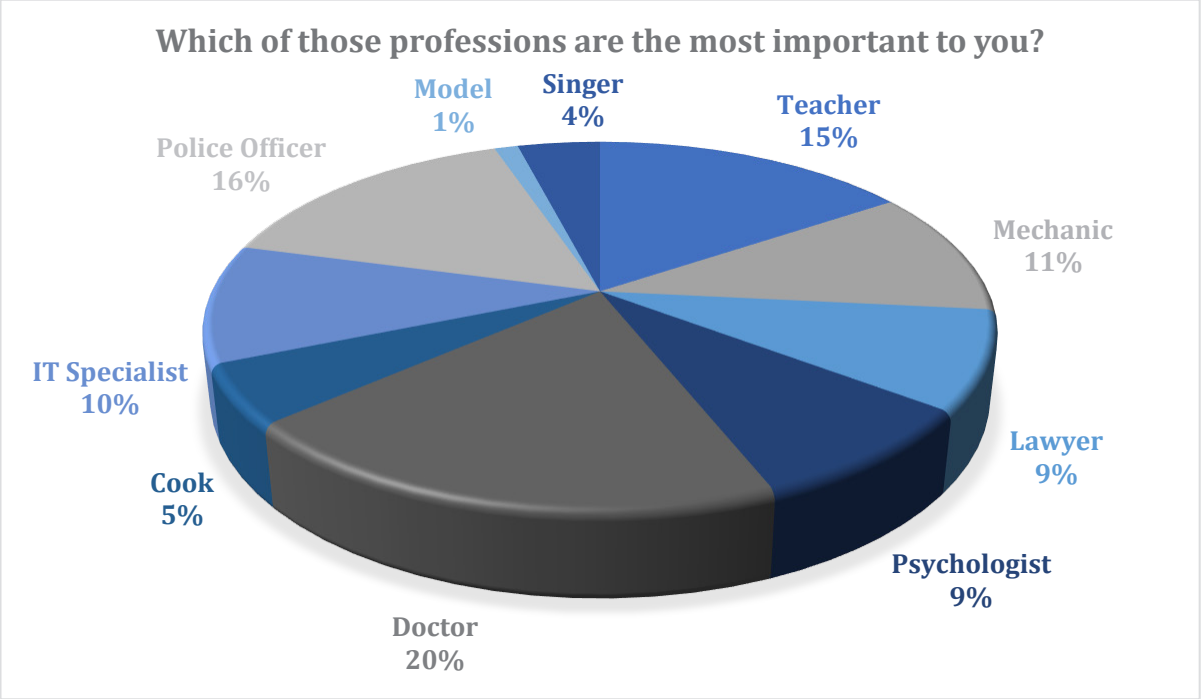

Fig. 1 Results of the author's own survey conducted on 38 participants between 13th and 18th January 2023

What is even more relevant, when speaking of expectation in lawyers' behavior most of the respondents stated that they would prefer to receive clear information (83%) as well as honest opinions (81%). On the other hand, it is also worth emphasizing that nearly 70% know some lawyers or students of the law, usually they were colleagues (in 52% of interviewee) or friends (36%).

When interviewed, the participants think they will need lawyers mostly for proving their innocence or generally for legal cases. Hence, their answers regarding special position of lawyers in Poland were divided in half.

All in all, opinions differ depending on what kind of lawyers individuals meet and depending on lawyers' education, social environment, field of law and kind of relationship which they have with those professionals.

STATUS OF THE PROBLEM

All in all, the problem with lawyers in Poland remains complex. Many various components need to be analyzed and looked into. The worst obstacle is that the generalizations are always detrimental for some part of the society. However, as Norman Vincent Peale once said: "Change your thoughts and you change your world", because no one said that this case cannot be solved.

WHAT COULD BE DONE

In order to introduce changes it is necessary to, accept that some of above described elements needs to be improved. Further on, new subjects from linguistic field can be instituted, for instance forensic linguistics and psychology, especially regarding human perception and

reaction to various announcements. That, of course, requires help from specialists in these fields, but still throughout cooperation of lawyers, linguists and psychologists, this problem can be partly solved.

LAWYER - A FRIEND OR IDOL

Last but not least, it is hard to explicitly define, how lawyers should behave. Nevertheless, it remains certain that they are exceptional specialists who will always be needed. Hence, it is relevant to ask, if one should not pay attention to how they behave or better invest in lawyers in order to receive pertinent communication, when it will be desperately needed. This question everyone needs to answer on their own.

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TRANSFERRING LEGAL INFORMATION TO THE ELDERLY: ADDRESSING ACCESSIBILITY TO THEIR RIGHTS AND THE RESTRICTIONS THEY ENCOUNTER

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Abstract. The paper addresses areas such as language and legal knowledge in connection with the elders' awareness of their rights based on proper legal communication. The elder population encounter a wide array of legal obstacles, many of which prevent them from obtaining up-to-date legal information, thereby unwittingly imposing restrictions on them. The first part of the paper explains the terms related to the barriers the older people face with particular emphasis on ageism. What is more, it provides data which emphasize the lack of adequate information, leading to the purpose of this paper: improving the methods in which older generations obtain legal advice. The second part of the paper recognizes the most common, in our opinion, problems the elderly find difficult to deal with. Primarily, we try to concentrate on the reasons lying at the heart of that daunting situation which respectively would be access to the Internet and know-how to use electronic devices in order to get different pieces of information, stressing the point why state-of-the-art methods are not the best educational choice for the older generation. Subsequently, we put forward the way of sorting the issue, highlighting the significance of well-performed face-to-face communication which according to our research works best for people over the age of 60. The final part provides conclusions drawn from the results obtained from the literature review, as well as the dire need of implementing some innovative solutions that may help the elderly in everyday life.

Keywords: legal communication, ageism, the elderly, rights, restrictions

INTRODUCTION

Many countries are facing demographic changes including longer lifespans of citizens which results in a bigger number of elderly people who are becoming one of the most numerous age groups. According to the WHO the population is "ageing" faster than ever before. Just in 2020 the children under 5 years old were outnumbered by people aged 60 years and older. Based on the research conducted by WHO (2022), in 7 years, 1 in 6 people in the world will be aged 60 years or over.

Even though the number of older people is growing, the world is still not designed to their needs. One of the many problems the elderly face nowadays is ageism – a term coined and defined in 1975 by Robert Butler as "a process of systematic stereotyping or discrimination against people because they are old, just as racism and sexism accomplish with skin colour and gender. Ageism allows the younger generations to see older people as different than themselves; thus they subtly cease to identify with their elders as human beings." (Butler, 1975) The Ontario Human Right Commission goes even further referring to ageism as "a tendency to structure society based on an assumption that everyone is young, thereby failing to respond appropriately to the real needs of older persons." (Spencer, 2009, p.9) That approach culminates in the marginalization, invisibility and even exclusion of older people in the majority of fields. Thus, their rights are refused to be acknowledged.

Consequently, trying to fathom their viewpoint and to point out the unawareness of their rights, in 2008 in Sao Paulo 63 older people were subject to a survey investigating the matter. Only 49.2% recognized their rights among which the most common ones were the free means of transport. In connection with those rights 25% of the participants presumed they were respected, while 44% affirmed that the rights were respected only partially (Komatsu, Martins & Massarollo, 2008).

Overall, roughly half of the elderly are not cognizant of what they are allowed to by law which emphasizes the fact that they are uninformed on their rights. It also may be attributed to the loopholes in transmitting legal information.

MATERIALS AND METHODS

This is a literature review on what has been written on the topic focusing on the lack of proper ways to communicate legal information regarding the older generation.

RESULTS AND DISCUSSION

There are manifold restrictions that the elderly face on a daily basis. It is worth noting that because of the characteristics of the elderly such as "the ability to balance stress and focus on what really matters in life or the skill of creating strong bonds with people" (Watson, 2021) people from this particular age-group have different needs when it comes to information transmission which should be more adjusted to them and personalized. The senior members of the society often struggle also with the disorders that do not refer to other age-groups, i.e. sensory and physical impairments, communication difficulties, Alzheimer's disease or dementia.

The elderly population also face a variety of legal issues that are common for them as a group and require access to legal information or professional advice. One of them is consumer protection as the elderly may fall victims to scammers or may be taken advantage

of in financial transactions. “Elder fraud cost Americans over the age of 60 more than $966 million in 2020, according to the FBI’s Internet Crime Complaint Center (IC3)” (Reid, 2023). There are various methods of the elder fraud schemes, e.g. romance scams, home repair fraud, government impersonation schemes, fake prize or grandparent scams. Some of them take place online or via phone calls and messages, in other cases swindlers come directly to the seniors’ home trying to extort money. Although the schemes may take many forms, the goal is always the same - deceive and take advantage of the others. Becoming the victim of fraud abuse may be a traumatic experience for an older person, as this kind of action results, among others, in financial loss. “The elders suddenly lose the money they were saving for retirement, planning to pass down to family members, or using for daily needs like paying bills or grocery purchases.”(Reid, 2023). This kind of abuse also reduces the sense of well-being, and leads to issues such as insomnia, loss of appetite, depression, anxiety and relationship difficulties. That is the reason why having access to information concerning their consumer rights and the knowledge of how to protect themselves from fraud is essential.

Another thing that comes to mind when thinking of legal hassles when one is 60 or older is the matter of writing your own will: “A will is a written document that controls the disposal of a person’s property after death” (The Community Legal Education Association, 2014, p.5). Dying intestate can do more harm than good so it is extremely important to educate people in retirement to make an effort to make it. “If you die intestate, your estate will be distributed according to the inflexible provisions of the law, with no consideration for your personal wishes. In such a case, the law provides benefits only to close relatives. Friends, distant relatives and worthy causes you have supported in the past will receive nothing” (The Community Legal Education Association, 2014, p.8). Thus it is always best to plan the distribution of your assets after your death even if one thinks they do not have anything particularly valuable to offer to the nearest and dearest. In turn, your inheritance is safeguarded while the chosen beneficiary preserves the assets meeting the deceased’s needs. To make that legal process easier, the pensioners require solicitor’s assistance.

All of those have to be taken into account while communicating, conveying knowledge on law and giving legal advice, as they strongly contribute to legal misinformation.

One of the most significant causes of the elderly’s exclusion and marginalization regarding the information is the access to the Internet. Even if some individuals know how to navigate the web, they are not able to look for the legal information they could use. Since that is a widely known issue, the governments are trying to come up with solutions, e.g. the idea of the British Government to adopt “e-services amongst its citizens by pioneering projects such as adoption of online centers, Learn Direct, and Wired up Communities” (Basu, & Duffy, 2010, p.2). Another way of solving the case is creating online portals which are supposed to widen the elders’ knowledge about law systems, for instance NCER.acl.gov. or flcourts.gov. Apart from those many countries have created websites such as direct.gov in the UK (www.direct.gov.uk) and gov.pl in Poland (www.gov.pl) that give the citizens the possibility to access services offered by the government without leaving home.

As it turns out from the research conducted in Northern Ireland on the potential of the Internet as a possible source for providing legal advice to older people, online legal

information may frequently assist older people in identifying potential answers to their legal enquiries. However, the basic knowledge that can be found on the Internet cannot solve complex and intricate legal issues. That is why face-to-face interaction with the lawyer is much needed. Consequently, state-of-the-art sources of the information such as the Internet may not be an adequate substitute for personal communication and legal advice. (Duffy, Basu & Pearson, 2012)

"Many older people, like the population as a whole, do relatively little information seeking when they are facing a problem or critical situation. Often only one source is approached. Additionally many do not seek information until it is really needed—"until the time comes". For example, many think there is no need to worry about (. . .) an advanced health directive until later in life." (Edwards & Fontana, 2004, p.5). Thus, the older generation should be tipped with all the information applying to them, as they are not able to look for one thing for hours. Their lack of knowledge and skills hinders them from doing so.

What deserves to be brought up is also the fact that the people approaching retirement are not in possession of the information of what they should be aware of. According to the discussions done in the South of Australia "people didn't know where to go for help and felt there was no central point for retirement planning" (Edwards & Fontana, 2004, p.58). What is more, after presenting them with all the options available to get legal advice, they found them barely adequate and reliable, including the government departments. Even though they declared them credible it was not enough as they do not provide "a wide range of information" (Edwards & Fontana, 2004, p.59).

The information sources for legal information that are commonly used among the elderly, apart from the above-mentioned, are: magazines, brochures and pamphlets, local newspapers and large city dailies, radio, professionals and face-to-face oral information followed by written information. However, the most valued and preferred ones are people conversant with the law. Unfortunately, family and peers are not considered accurate.

That is another reason why the role played by solicitors in transferring the knowledge about the law is of vital importance to the society. Nevertheless, the obstacles are still likely to occur. The barriers encountered when consulting the legal advisors may be of different nature: the ones connected with the characteristics of the elderly and the ones involving the characteristics of information providers. The first category includes e.g fear that lawyers may be against their best interests or even the general belief that they cannot solve their problems with the help of law as it is considered disempowering. The latter classification include e.g high costs of the professional legal services and issues related to the phenomenon of ageism that may include stereotypes about older people and lack of interest in older people from legal practitioners (Edwards & Fontana, 2004).

A good lawyer should be able to build truthful relationships with their clients as it enables them to fully grasp the essence of the law. There are two types of lawyers, considering their attitude/approach towards clients. The first one is represented by a traditional model of conversation and the other one is called participatory one. The traditional model of client-lawyer relationship is more popular e.g. in Poland, the participatory one prevails in the USA. Only in the latter case does the client have an opportunity to be looked after properly and establish a relationship with a solicitor based on mutual respect and understanding.

While in a traditional model, settlement is much harder to achieve as jurisprudents do not keep in mind the needs of the client, not to mention their lack of patience when explaining the issues. The main problem of the traditional model is severe deficiency of respect owing to the fact that lawyers often do not clue their clients in on legal matters. They discuss the case briefly, hastily moving on to the next topic. Even if the clients ask questions, the matter is discussed in technical terms, not familiar to the laymen. Most of the lawyers from the traditional school tend to look down on their clients which leads to their dissatisfaction.

Whereas lawyers representing the participatory model are usually open to debate and willing to answer all the questions. Both sides - lawyers and clients - work together in order to win the case. When the clients feel at ease, they are eager to cooperate more and so they participate actively in their own cases. Furthermore, they gain knowledge from the experience and are more likely to feel accomplished afterwards, irrespective of the result of the case.

Other approaches of addressing the problems of legal miscommunication and the loopholes in transmitting legal information may be widening the availability of sources.

Moreover, the legal advice and the knowledge about the elders' rights should be transferred to older people in accessible, age-appropriate manner, i.e the specialized terms should be definitely avoided unless they are essential to the gist of the statement. If they are used, they ought to be thoroughly explained. Furthermore, "a public education campaign to raise awareness of issues such as enduring powers of attorney and legal rights" (Edwards & Fontana, 2004, p.7) needs to be organized. It may take various forms, e.g. art workshops for seniors that would positively affect not only their legal knowledge, but also the aesthetic sense, their artistic skills, not to mention the strengthening of the interpersonal relationships. Those kinds of education campaigns in order to be more easily approachable for seniors may also refer to past years that were years of their youth.

CONCLUSIONS

Taking all the matters into consideration, the amount of problems the elderly have to face every day appears unfair. The way the law system works, fails to be efficient for them and that is one of the reasons why they should be better informed about the law, especially the one that applies to them. Elderly people, like all citizens, ought to know their rights and responsibilities but in order to make it happen, the legal information should be passed on to them in an age-appropriate manner.

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ACADEMIA

POLISH SCHOOLS OF APPLIED LINGUISTICS - HISTORY, STATUS, PERSPECTIVES. THE CONFERENCE TO MARK THE 50TH ANNIVERSARY OF THE INSTITUTE OF APPLIED LINGUISTICS, UNIVERSITY OF WARSAW

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On 17-19.11.2022, an anniversary scientific conference titled "Polish schools of applied linguistics - history, status, perspectives" was held under the honorary patronage of Alojzy Nowak, the Rector of the University of Warsaw. The event was organized in order to mark the round - fiftieth - anniversary of the founding of the Institute of Applied Linguistics at the Faculty of Applied Linguistics of the University of Warsaw. The conference was held in a state-of-the-art building at 55 Dobra Street in Warsaw, which was opened this year.

The event began with the opening ceremony of the 50th anniversary of the Institute of Applied Linguistics, attended by His Magnificence Prof. Alojzy Nowak, PhD Hab., the Rector of the University of Warsaw, Magdalena Olpińska-Szkiełko, PhD Hab., Prof. UW, Dean of the Faculty of Applied Linguistics, and Anna Jopek-Bosiacka, PhD Hab., Director of the Institute of Applied Linguistics. After the letter from Przemysław Czarnek, the Minister of Education and Science of the Republic of Poland had been read, Professor Franciszek Grucza - the author of the comprehensive and innovative concept of applied linguistics, as well as the founder and first, long-time director of the Institute of Applied Linguistics - was honoured. Then, the participants listened to a commemorative lecture delivered by Professor F. Grucza. The first day of the Anniversary celebrations ended with a gala dinner, which was preceded by the *Telemann's Poland* concert of baroque music performed by Orkiestra Czasów Zarazy.

The second day of the conference was devoted to delivering scientific presentations, divided into thematic sections: Language, Specialized Communication, Glottodidactics and Translation Studies. The conference was opened by Prof. Ewa Żebrowska, PhD Hab., the Vice Dean for Academic Affairs of the Faculty of Applied Linguistics. The conference included the opening lecture by Prof. Małgorzata Tryuk, PhD Hab. (UW), titled „Z zagadnień tłumaczenia ustnego. Przeszłość – teraźniejszość – perspektywy" ("The Issues of Interpreting. Past - present - prospects"), as well as the plenary lectures by Prof. Piotr Stalmaszczyk, PhD Hab. (UŁ), titled „Pytania o naturę języka: pomiędzy językoznawstwem a filozofią języka" ("Questions about the nature of language: between linguistics and the philosophy of language") and Agnieszka Andrychowicz-Trojanowska, PhD Hab. (UW), titled „O badaniach w glottodydaktyce – wczoraj, dziś i jutro" ("On research in glottodidactics - yesterday, today and tomorrow").

During the third day of the conference, the Culture and Literature section was added to the topics of the presentations, and as many as four plenary lectures were delivered: by Prof. Ewa Żebrowska, PhD Hab. (UW), titled „Językoznawstwo (stosowane): pomiędzy empiryzmem i aprioryzmem" ("(Applied) Linguistics: Between empiricism and apriorism"), by Renata Dampc-Jarosz, PhD Hab. (UŚ), titled „Początek i koniec, czyli co kryje się za progiem? O

uwodzeniu, formowaniu i poszukiwaniu w kontekście przemian kultury niemieckiej" ("The beginning and the end, or what hides on the doorstep? On seduction, formation and exploration in the context of the German cultural change,"), by Małgorzata Gaszyńska-Magiera, PhD, Hab.. Prof. UW, titled „Przekład literacki i wędrówki pamięci. O przekładach prozy obozowej Jorgego Semprúna na hiszpański i polski." ("Literary Translation and the Wanderings of Memory. On the translations of Jorge Semprún's camp prose into Spanish and Polish."), and Agnieszka Biernacka, PhD Hab. (UW), titled „Tłumaczenie sądowe na odległość" ("Remote Judicial Translations").

In addition, during the conference, the participants were encouraged to see the anniversary exhibition titled "50 Years of the Institute of Applied Linguistics".

The 50th anniversary of the Institute of Applied Linguistics of the University of Warsaw is not only a memorable, joyous occasion for the University, but also for all the numerous researchers, scientists, and everyone who deals with applied linguistics, thus developing and continuing the concepts of Professor Franciszek Grucza. It is so, as since the establishment of the Institute, Polish applied linguistics has developed so strongly and extensively that it no longer makes sense to talk about a single "school"; hence, the aforementioned "schools". Having honoured half a century of history and achievements of the Warsaw school of applied linguistics, the organizers assure that these "50 years" have been just "the good beginning."